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1939  
25th SESSION  
V

REPORT V

**International Labour Conference**

**TWENTY-FIFTH SESSION**

**GENEVA, 1939**

**Generalisation of the Reduction  
of Hours of Work  
in Industry, Commerce and Offices**

Fifth Item on the Agenda



**GENEVA  
INTERNATIONAL LABOUR OFFICE**

**1939**

# INTERNATIONAL LABOUR OFFICE

GENEVA, SWITZERLAND

## BRANCH OFFICES

- China:** Mr. HAI-FONG CHENG, 754 Bubbling Well Road, Shanghai.  
("Interlab, Shanghai"; Tel. 30.251.)
- France:** ..... 205 Boulevard St-Germain, Paris VII<sup>e</sup>.  
("Interlab, Paris"; Tel. Littré 92.02.)
- Great Britain:** Mr. M. R. K. BURGE, 12 Victoria Street, London, S.W.1.  
("Interlab, Sowest, London"; Tel. Whitehall 1437.)
- India:** Mr. P. P. PILLAI, International Labour Office (Indian Branch),  
New Delhi. ("Interlab, New Delhi"; Tel. 3191.)
- Japan:** Mr. I. AYUSAWA, Shisei Kaikan Building, Hibiya Park, Koji-machiku, Tokyo. ("Interlab, Tokyo"; Tel. Ginza 1580.)
- United States:** ..... 734 Jackson Place, Washington, D.C.  
("Interlab, Washington"; Tel. District 8736.)

## NATIONAL CORRESPONDENTS

- Argentine Republic:** Mr. ALEJANDRO UNSAIN, Av. Pte. Roque Saenz Peña 671  
(8<sup>o</sup> Piso, B.), Buenos Aires. Address correspondence to: Calle Berutti 3820,  
Buenos Aires. ("Interlab, Buenos Aires"; Tel. U.T. 34, Defensa 3756.)
- Belgium:** Mr. M. GOTTSCHALK, Institut de Sociologie Solvay, Park Léopold,  
Brussels. ("Interlab, Brussels"; Tel. 33.74.86.)
- Brazil:** Mr. A. BANDEIRA DE MELLO, Ministère du Travail, Salas 848.850,  
Rio de Janeiro. ("Interlab, Rio"; Tel. 42-0455.)
- Chile:** Mr. M. POBLETE TRONCOSO, Casilla 2811, Santiago. ("Interlab, Santiago".)
- Cuba:** Mr. JOSÉ ENRIQUE DE SANDOVAL, Edificio la Metropolitana, No. 422,  
Calle Presidente Zayas, Havana. ("Interlab, Havana"; Tel. M. 78.13.)
- Czecho-Slovakia:** Mr. OTAKAR SULIK, Pankrac 853, Prague XIV. ("Sulik,  
853 Pankrac, Prague"; Tel. 575-82.)
- Ecuador:** Mr. V. G. GARCÈS, "El Dia", Quito.
- Estonia:** Mr. A. GUSTAVSON, Gonsiori 43, Tallinn. ("Gustavson, Gonsiori 43,  
Tallinn"; Tel. 301-48.)
- Hungary:** Mr. GEZA PAP, Margit körút 45, Budapest II. (Tel. 1-530-17.)
- Latvia:** Mr. KARLIS SERŽANS, Skolas iela 30, Riga. ("Sabmin, Riga, Latvia".)
- Lithuania:** Mr. K. STRIMAITIS, Kalniečių 4-a, Kaunas. (Tel. 2-48-56.)
- Mexico:** Mr. FEDERICO BACH, Apartado 292, Mexico, D.F. ("Interlab, Mexico";  
Tel. Ericsson 4-75-91.)
- Poland:** ..... Flory 1/11, Warsaw. ("Interlab, Warsaw";  
Tel. 8-15-65.)
- Rumania:** Mr. G. VLADESCO RACOASSA, Strada Maria Rosetti 47-49, Bucharest III.
- Spain:** ..... Apartado de Correos 3032, Madrid. ("Interlab,  
Madrid"; Tel. 30.848.)
- Uruguay:** Mr. ERNESTO KUHN TALAY, Colón 1476, Montevideo.
- Venezuela:** Mr. RAFAEL CALDERA, Sur 14, 56-2, Caracas. ("Interlab, Caracas".)
- Yugoslavia:** Mr. L. STEINITZ, Poštanski Pregradak 561, Belgrade. ("Interlab,  
Belgrade".)

REPORT V

# International Labour Conference

TWENTY-FIFTH SESSION

GENEVA, 1939

## **Generalisation of the Reduction of Hours of Work in Industry, Commerce and Offices**

Fifth Item on the Agenda

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## INTRODUCTION

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The Twenty-fourth Session of the Conference, when dealing with the question of the generalisation of the reduction of hours of work, decided to place the two following items separately on the agenda of the Twenty-fifth Session:

The generalisation of the reduction of hours of work in industry, commerce and offices;

The reduction of hours of work in coal mines.

It also requested the Governing Body to summon one or more preparatory technical tripartite meetings with a view to studying the bases of international regulations on the reduction of hours of work in transport, including the handling of goods in transit at docks, quays, wharves, warehouses, airports, etc.

In accordance with the normal procedure, the Twenty-fourth Session of the Conference adopted for industry, commerce and offices a list of points for the consultation of Governments and requested the Office, on the basis of the replies received, to draw up the present Report for the purpose of a second discussion.

The conclusions adopted by the Conference were used by the Office for the preparation of a Questionnaire which was sent to Governments towards the end of July 1938 with a request that the replies should be sent in not later than 15 November 1938. In reality, most of the replies did not arrive until some considerable time later and the preparation of the Report was delayed in consequence. On 31 January 1939, the date at which the present Report was drawn up, replies had been received from the following countries: Australia (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia), Belgium, Canada (Alberta, British Columbia, Manitoba and Ontario), Denmark, Egypt, Estonia, Finland, France, Great Britain, India, Iraq, Ireland, the Netherlands, New Zealand, Poland, Siam, Spain,

Sweden, Switzerland, Turkey, the Union of South Africa and the United States of America.

The Report consists of three chapters. Chapter I reproduces the replies of Governments, which are analysed in Chapter II. Chapter III contains the conclusions which the Office feels justified, under present circumstances, in drawing from the results of the consultation of Governments.

*Geneva, March 1939.*

## CHAPTER I

### REPLIES OF THE GOVERNMENTS TO THE QUESTIONNAIRE

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The Governments of the following countries did not furnish detailed replies to the Questionnaire, but sent general statements of their views to the Office: Australia (States of New South Wales, Queensland, South Australia, Tasmania and Victoria), Canada (Provinces of Alberta and British Columbia), Egypt, Estonia, Finland, Great Britain, India, Iraq, Ireland, Netherlands, Poland, Siam, Sweden and Turkey.

In addition, the Governments of France, Switzerland and the Union of South Africa prefaced their detailed replies with some introductory remarks.

The general statements made by these Governments are reproduced below.

#### AUSTRALIA

##### *New South Wales*

It is the policy of the New South Wales Government to leave the question of the determination of hours to be worked in industry to the Industrial Commission (established under the Industrial Arbitration Act) which can give a decision that will have regard to the interests of the employee, of the industry itself, and to the effect of this determination upon employment and the cost of living. It is regretted that it is not possible to furnish replies to this Questionnaire.

It might be mentioned, however, that the Government's policy has been legislatively carried out by the amending Industrial Arbitration Act of 1932. The Industrial Commission under this Act has been authorised to determine or declare, after a public enquiry, the standard hours of all industries to which the Act applies. In pursuance of these powers, the Commission held an enquiry in 1933 and intimated that the standard hours should be 44 a week.

It is considered that the existing law is sufficiently wide to allow of the claim of any industry or group of industries for a shorter working week to be considered by the Industrial Commission and it is open to any organisation to apply to the Commission for a reduction in working hours.

It is the opinion of the New South Wales Government that it is impracticable to legislate for individual industries or groups of industries. Such a course, if pursued, would lead to dissatisfaction and unrest in those industries not covered.

It is also pointed out that constitutional limitations render it impossible for the New South Wales Parliament to legislate generally, inasmuch as

approximately 50 per cent. of the employees of this State are covered by awards of the Commonwealth Court of Conciliation and Arbitration. Any legislation passed by the New South Wales Parliament regarding hours would not be effective in respect to employees whose hours are fixed by awards of the Commonwealth Court. The New South Wales Parliament is not, therefore, a competent authority for the enactment of legislation respecting all employees engaged in New South Wales.

### *Queensland*

The Queensland Industrial Court constituted under the Industrial Conciliation and Arbitration Acts has power to prescribe the hours of work in callings and industry, provided that in making declarations as to hours the Court shall take into consideration the probable economic effect of such declaration in relation to the community in general, and the probable economic effect thereof upon industry or any industry or industries concerned. It would appear that the position in this State with respect to the industries mentioned does not require any alteration.

### *South Australia*

The South Australian Government is opposed to the adoption of a Draft Convention on the lines contemplated by the International Labour Office. The system operating in South Australia under which wage rates, hours and conditions of employment are determined by independent tribunals constituted for that purpose has over many years proved satisfactory. It is suggested that the International Labour Office might consider the adoption of such a system.

### *Tasmania*

Answers to this Questionnaire involve difficult questions of policy, on which it is not easy to decide in view of the complicated political and constitutional conditions in Australia with respect to the general question of the reduction of hours of work. In view of the constitutional questions involved and the existing Australian-wide system of fixing the hours of labour by means of determination or awards of industrial tribunals and not by legislation, and in view of the discussions at the last Conference of Commonwealth and State Ministers upon this subject, there appears to be little utility in any one State endeavouring to answer Questionnaires which seek to ascertain what is the opinion of the Australian Government as a Member of the International Labour Organisation. Before satisfactory replies to these Questionnaires can be formulated, it will be necessary for Commonwealth and State representatives to discuss the whole problem again.

The Government of Tasmania, however, desires to reaffirm its general adherence to the principle of the 40-hour week, which it is prepared to implement within its sphere of legislative power as part of a general Australian policy.

### *Victoria*

In Victoria the duty of determining the weekly hours to be worked, as well as other conditions of employment, is placed with various Wages Boards. In view of this power held by a board of experts in a particular trade, it is unlikely that any action will be taken by the Victorian Govern-

ment to reduce the hours of work in the industries referred to, unless it be as part of a general reduction in all trades. The principle of a shorter working week was reported upon by a Parliamentary Select Committee in 1935, and during August 1936 the question of the introduction of a uniform 40-hour working week was discussed at a Conference of Premiers in Adelaide, but it was impossible to obtain unanimity in the matter.

### CANADA

#### *Alberta*

The Government of the Province of Alberta is of the opinion that the regulations contemplated could be better taken care of by each individual country for the reason that international regulation could not be successfully applied.

#### *British Columbia*

As the question of hours of work in industry, commerce and offices has already been covered by legislation and regulation in the Province of British Columbia, the Government is of the opinion that the best method of answering the Questionnaire is to forward the copies of the enactments at present in force in British Columbia.

The Government consequently supplies copies of the Hours of Work Act, which sets out the application of the law relating to hours of work of employees in industry and business in general, the Minimum Wage Order No. 34 relating to the office occupation, and the Minimum Wage Orders Nos. 24 and 59 relating to the mercantile industry.

### EGYPT

The Egyptian Government, having examined Questionnaire V, consider that it would serve no useful purpose to reply in detail to it. Their reluctance to do so is not because they are not in sympathy with proposals to reduce hours of work throughout the world to limits more compatible with the welfare of workers than those at present obtaining, but because the economic and social interests of Egypt do not permit the reduction of hours of work in industry and commerce in this country even to the limits adopted in the Washington Convention. They feel in consequence that it would be unfair to make suggestions involving perhaps considerable sacrifices to countries willing to adopt a Convention which Egypt could certainly not ratify in the near future.

Nevertheless, the Egyptian Government are studying the question of the limitation of hours of work and hope soon to introduce important reforms in this field, both in industry and commerce, in addition to the limitations already introduced in respect of the work of women and children and dangerous and fatiguing industries, without causing any prejudice to the national economy.

### ESTONIA

The Estonian Government had occasion to state its attitude to the question of the reduction of hours of work in its reply to the questionnaire of 1933 on that subject. The industrial establishments of this

country are of relatively recent date, and have not yet been able to bring their organisation and working methods up to the level reached in undertakings making use of the most modern technical developments. This makes competition with the old and highly industrialised countries very difficult. If hours of work are reduced, Estonian industry may be rendered wholly incapable of competing with foreign industry. Further, a reduction of hours can be effected only if a corresponding reduction is made in wages; but such a reduction would have a harmful effect on the situation of the workers and would diminish their purchasing power.

On the other hand, it must be remarked that the principal reason justifying the measures for the reduction of hours of work, namely the need to reduce unemployment, does not apply in Estonia's case, since at the present time there is no unemployment in the country but rather a shortage of labour.

In commerce and offices, too, work is not rationalised or mechanised to an extent permitting competition with countries in which a high degree of technical development has been reached. The reduction of hours of work would certainly result in a decline in production and an increase in prices.

In view of its negative attitude to the question of international regulations for the reduction of hours of work, the Government does not consider it necessary to reply in detail to the Questionnaire.

#### FINLAND

The question of the adoption of international regulations on the 40-hour week has already been under discussion in the International Labour Organisation for several years. Originally the aim in view was to provide more work for the unemployed, but now it appears to be to bring about a permanent reduction of working hours in industry and commerce. During the last few years an attempt has been made to realise this aim by dealing with each branch of industrial activity separately at the sessions of the International Labour Conference, but the only result of this procedure has been the adoption of a very small number of Conventions. It would appear that such a considerable reduction of the working week—from 48 to 40 hours—cannot be applied separately, save in a few exceptional cases, to the various fields of industrial activity; and for this reason the method now proposed, namely that of the generalisation of the reduction of hours of work, should be given the place of first importance. Attention must also be given to the question whether such a radical reduction of hours of work should be envisaged as an immediate measure or whether it would be wiser to attempt a gradual reduction by stages over a given period. Further, it must be realised that whereas the purpose of International Conventions is to favour the equalisation of social charges as between different States, certain important industrial countries are not Members of the International Labour Organisation, and there is no guarantee that they would apply the reduction adopted.

As regards Finland, the question of the reduction of hours of work in industry is at present being examined by a State Commission. This Commission, however, has not yet completed its task, so that no study yet exists on the subject containing complete information on the present situation as regards hours of work or the consequences which the reduction of the working week below 48 hours would have for the economic life of the country or the remuneration of the workers. As a general

condition for the reduction of working hours, it should be laid down that such reduction should not entail a lowering of the wage level. It seems unlikely, on the other hand, that the present level of wages in Finland can be maintained if working hours are reduced. Further, it must be observed that the hours of agricultural workers have not yet been regulated in this country.

Since the question of hours of work is at present the subject of official investigation in Finland, and since a general reduction of working hours in this country does not seem practicable, at any rate for the moment, it has not been considered possible to give a detailed reply to the various points contained in the Questionnaire on the subject. This must not, however, be taken to mean that Finland would not be prepared to discuss the question of reducing hours of work or even to apply such a reduction, in a manner and to a degree suited to the conditions of the country, if it were applied also by the countries with which Finland has close economic relations.

#### FRANCE

The French Government has recently been compelled to take into account the fact that French hours of work legislation was far in advance of the legislation of most, if not all, other countries.

As long as these other countries have not adopted a limitation of hours of work approximating to the legislation passed in France during 1936, the Government reserves to itself the right to maintain in force for the time being more extensive adjustments and facilities for the application of the law than those it recommends with a view to the international reduction of hours of work.

#### GREAT BRITAIN

His Majesty's Government remains of the opinion that the question of the reduction of hours of work can only be dealt with industry by industry in the light of the characteristics of each industry and taking into account the effect on wages of any proposed reduction. In its opinion, therefore, it is not practicable to deal with the international regulation of hours in industry and commerce either by one or by two Draft Conventions and the wide variety of activities concerned require more detailed consideration than is possible within the limits suggested.

In view of the above reply, answers to the subsequent questions are unnecessary.

#### INDIA

The existing position in India as regards regulation of hours of work is as follows:

(a) The Factories Act, 1934, lays down a week of 54 hours for non-seasonal factories and a week of 60 hours for seasonal factories. It applies to power factories employing 20 or more persons, but can be extended by Provincial Governments to any premises employing 10 or more persons.

(b) Under the Indian Mines Act, 1935, no person is allowed to work more than six days in a week; while those employed above ground are

not allowed to work for more than 54 hours a week or for more than 10 hours a day, and those below ground for more than 9 hours a day.

(c) The normal daily hours of work in all major ports (except Madras) are nine, exclusive of rest intervals. At Madras they are eleven, with an hour's interval.

(d) Under the Indian Railways (Amendment) Act, 1930, a railway servant, other than a railway servant whose employment is essentially intermittent, is not permitted to work for more than 60 hours a week on the average in any month, and must be given a continuous rest of 24 hours in every week. A railway servant whose employment is essentially intermittent is not allowed to work for more than 84 hours in any week. These provisions are applicable to the Operating, Transportation, Commercial, Traffic, Engineering, Mechanical, Shed Watch and Ward, and Office staffs, and to the staffs of the Medical Stores and Accounts Departments on the North-Western, East Indian, Great Indian Peninsula, Eastern Bengal, Bombay, Baroda and Central India, Madras and Southern Mahratta and Bengal and North-Western Railways.

The hours of work referred to in (a) and (b) above were introduced as recently as 1935. In 1931, the Government of India, with the concurrence of the Indian Legislature, decided not to ratify the Convention concerning the regulation of hours of work in commerce and offices, nor to accept the connected Recommendations adopted by the 14th Session of the International Labour Conference. Since then there has been scarcely any demand for further restriction in hours of work (except in shops), and an examination of the causes of trade disputes in this country will show that it is rarely a cause of strikes. This is the more true in offices, where the leisurely methods of work permitted by longer hours are generally preferred. The additional burden to industry that would be imposed by regulation and the expense of the inspectorate adequate to compensate for the absence of trade unionism make ratification by India a remote possibility in present circumstances. The Government of India are accordingly unable at present to contemplate the extension of regulation on the scale proposed in the questionnaire, and believe that no useful purpose will be served by making a detailed reply to it.

#### IRAQ

The Government has no objection to the adoption of international regulations in the generalisation of the reduction of hours of work in industry, commerce and offices, but regrets that it is not in a position to submit a detailed reply to the Questionnaire.

#### IRELAND

The Government have considered the Questionnaire issued by the International Labour Office on the subject of the generalisation of the reduction of hours of work in industry, commerce and offices. The Government are in favour of the regulation of maximum hours of employment by statute and have already given effect to this policy in the Conditions of Employment Act, 1936, and the Shops (Conditions of Employment) Act, 1938. These enactments prescribe maximum hours

of work per day and per week for men, women and young persons engaged in industry and commerce.

The Shops Act, 1938, limits the normal working week to 48 hours in the case of workers employed in shops and to 56 in the case of workers employed in hotels. In respect of night and overtime employment, special restrictions are imposed on juveniles.

The Conditions of Employment Act, 1936, limits the maximum normal hours to 48 per week for men and women and to 40 per week for young persons of either sex under the age of 18 years. In "continuous process" shift work and licensed shift work the maximum hours per week are 56. In pursuance of Section 52, however, the Minister may, after consultation with representatives of employers and of workers, fix the hours of work in respect of any form of industrial work and where such limitation of hours entails a reduction, he may make such provision as is necessary for securing that the average weekly earnings payable in a normal full working week to any person whose hours of work are reduced by such regulations shall not be reduced merely because of such reduction in his hours of work. The Minister has, in pursuance of this section, made regulations reducing the weekly hours of work of men and women to 44 in the boot and shoe industry, and in the following "continuous process" shift work industries has reduced the statutory weekly maximum from 56 to 42, viz.:

- (a) Glass-bottle works;
- (b) Sheet-glass works.

The Government do not contemplate any further general reduction of hours of work. Arrangements have, however, been made for the periodic examination of the conditions and circumstances of particular forms of work with a view to the reduction of the maximum weekly hours, whenever a reduction of this nature appears desirable.

#### NETHERLANDS

In view of all the communications made to the International Labour Office in recent years concerning the reduction of hours of work, the Government of the Netherlands considers that the International Labour Office may be deemed to be sufficiently familiar with the Government's views on this subject. (Reference may be made to the replies to the questions dealt with by the Tripartite Conference of 10-25 January 1933<sup>1</sup>; replies to the questionnaires for the Eighteenth Session of the International Labour Conference<sup>2</sup>; memoranda, copies of which were sent to the Office, from the Government to the States-General concerning the various special Conventions on the reduction of hours of work adopted by the International Labour Conference from 1933 onwards<sup>3</sup>; etc.)

<sup>1</sup> International Labour Conference, Seventeenth Session, Geneva, 1933: Fifth item on the Agenda: Reduction of Hours of Work; Report V (Grey-Blue).

<sup>2</sup> International Labour Conference, Eighteenth Session, Geneva, 1934: First item on the Agenda: Reduction of Hours of Work; Report I (Blue).

<sup>3</sup> Extract from Memorandum of 30 November 1936 from the Minister of Social Affairs to the President of the Second Chamber of the States-General, concerning Draft Conventions Nos. 47, 49 and 46 (Forty-Hour Week, Glass-Bottle Works, Coal Mines (Revised)), communicated to the International Labour Office by the

At the present stage, it appears from the discussions in Geneva at the last Sessions of the International Labour Conference that the introduction of a 40-hour week is recommended less as a remedy for unemployment than as a means of improving the social condition of the workers. This places on quite a different footing the campaign which has been undertaken for a reduction in hours of work. Apart from the question whether the introduction of the 40-hour week would lead to an increase in the number of workers employed, another question now arises, namely, the effect of a shorter working week on the social conditions and the family life of the workers and the consequences of such a system for industry and commerce.

Even for a single branch of industry it is extremely difficult to realise the various interests involved and to weigh these interests one against another; *a fortiori* it is absolutely impossible to do so in a field as vast as that including the whole of industry, commerce and offices. Such being the case, the Government regrets that it cannot collaborate in the drafting of so comprehensive and so radical a Convention; in saying this, however, it does not mean that in some particular instance the introduction of a 40-hour week might not deserve consideration. In view, therefore, of the above remarks, the Government regards it as unnecessary to reply in detail to the 93 questions put.

#### POLAND

The Government has decided not to reply to the Questionnaire relating to the generalisation of hours of work in industry, commerce and offices as this question is not at present an issue in Poland and in view of the difficulties with which the carrying out of these reforms might encounter in the international field.

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*Government of the Netherlands on 10 December 1936:* ". . . As regards Draft Convention No. 47, we consider that the Government's attitude towards the question of the reduced working week (40-hour week) may be regarded as familiar to you. Reference may be made in this connection to the discussions which have taken place on the subject in the Second Chamber of the States-General and, more particularly, to the recent budget debates concerning Chapter XII of the estimates for the financial year 1936. These show clearly that, in the Government's view, there are grave objections to the introduction of a 40-hour working week.

Furthermore, the Government has objections of another sort to the Draft Convention; these concern its form. We refer to the fact that the Draft Convention is a so-called Convention of principle. Any Government which ratifies this Draft Convention declares *inter alia* that it approves the principle of the 40-hour week and undertakes to apply that principle to classes of employment in accordance with provisions to be prescribed at a later date. Moreover—and the objection attaches above all to this—the principle is bound up with a condition, namely, that the workers' standard of living shall not be reduced.

Various questions immediately arise here: What is the value of such a Convention? What obligations does it involve? And how can a Government undertake to apply the principle of the 40-hour week to all industries without first knowing what schemes will be drafted for such industries?

But since, as we have said, there are decisive objections to the introduction of a 40-hour working week, the Government does not consider it necessary to examine the form of the Draft Convention more closely. In view of the above, it is obvious that the Government can make no proposal with a view to the ratification of the first of the above-mentioned Draft Conventions."

## SIAM

The Government, having regard to the conditions in the country, does not consider that it can usefully reply to the Questionnaire.

## SWEDEN

The Swedish Government submitted to the Riksdag of 1936 by a Government Bill the Draft Convention (No. 47) concerning the reduction of hours of work to 40 hours a week, which had been adopted by the Labour Conference of 1935. When the matter was laid before the Cabinet Council, the Minister of Social Affairs declared that the draft Convention had been given such a form that in reality it had the character of a declaration of principle in favour of the 40-hour week. After that the Minister made the following statement:

"The reason for adopting this peculiar form of Convention might have been the opinion that a certain care must be exercised and that it would be advisable to attempt to obtain a general accession to the very principle on the part of the various States before taking concrete legislative measures into consideration. Ratification of the Convention means an approval of the declaration of principle on the part of the ratifying State. With regard to the application of the principle to various kinds of occupation, however, the text of the Convention refers to special Conventions which will be binding only by means of a special ratification. Accession to the Convention of principle does not deprive a State of its right to examine the question of ratification of future special Conventions relating to the practical realisation of the principle. The import of ratification of the Convention may be considered to lie in the fact that the ratifying State undertakes to encourage the continued discussion of the question within the International Labour Organisation and declares its accession to measures aiming at limiting work to 40 hours a week. At the examination of such measures, the state of affairs in other countries should be taken into account. The importance of a simultaneous application of a limitation of hours of work in all countries, which are intensively competing on the world's market is also worthy of notice. Otherwise, the consequence of possible concrete measures would be a displacement of costs of production to the detriment of countries which carry out a limitation of hours of work, with accompanying risk for increased unemployment in these countries."

Referring to the fact that the Convention had the character of a statement of principle and emphasising that future practical State measures for the application of the 40-hour week required a special examination and special decisions by the Swedish Government, the Minister of Social Affairs recommended that the Convention in question should be ratified by Sweden.

The competent Committee of the Riksdag stated, with reference to the Government Bill, that the ratification of a Convention on the 40-hour week hardly could be made to agree with the fact that Sweden had not yet been able to ratify the Convention on the 48-hour week. The Committee further pointed out that there was no investigation into the economic consequences which would arise with regard to different kinds of activity if the 40-hour week were introduced in Swedish industry. There had been no investigation regarding the extent to which it would

be necessary to take into account that the intention of giving an increased number of workers the opportunity of working, after the introduction of the 40-hour week, would be counterbalanced by the fact that the workers in their leisure would undertake work in a trade other than their own. In consequence of these statements, the Committee was of the opinion that the Draft Convention should not be ratified.

The decision of the Riksdag was in accordance with the representations of the Committee.

The investigation for which the Questionnaire is meant to collect the necessary material and which is now being carried out in the Labour Office, aims at pursuing the efforts which have found expression in the previous Draft Conventions. It is obvious under the circumstances that the Swedish Government will have to consider very closely whether during the years which have passed since the question last was examined by the Riksdag, the state of things has changed so much that reasons are now at hand for taking up another attitude than the one which has found expression in the statement of the competent Committee quoted above.

The Swedish Government has aimed at a general introduction of the 48-hour week in Sweden within the shortest possible space of time. Thus, a special Act regulating the hours of work in agriculture has been passed during the last years. This Act as a principle limits the hours of work to an average of 8 hours per day, thus putting the conditions of work of the farm labourers on a level with what has been prevailing in industry since 1920. The Government intends to lay before the Riksdag a Bill concerning the 48-hour-week relating to the workers in commerce, but there are still certain branches of industry without legal regulation of the hours of work. This is the case in branches where the work is carried out under such conditions that a legal regulation of hours of work offers considerable difficulties, for instance work carried out in forestry and timber-floating. Under the circumstances, it is a matter of course that the Government in the first place is anxious to concentrate its efforts on reaching a generally applicable 48-hour week before planning a general reduction of the hours of work on a larger scale. Moreover, every step aiming at a further general reduction by means of legislation of the hours of work in industry and commerce presupposes close consideration of the economic arguments for and the consequences of such a development. Special stress must be laid upon the condition that the export of the country is not put in an unfavourable position from the point of view of competition, by restrictions which perhaps are not introduced in countries competing with Sweden on the export market.

When making this statement the Government does not want to deny that in its opinion there are reasons for considering the question of a reduction of the hours of work in such branches of work which are of a nature to cause special risks for the health of the worker, for instance, in underground mines. The same is also applicable to shift work, especially in the case of continuous processes. It might also be considered well-grounded to pay attention to the question to what extent the increased working speed, caused by the rationalisation of certain branches of industry, would give rise to a reduction of the hours of work.

In this connection the Government wants further to emphasise that the question of reducing hours of work by stages during a relatively long period certainly is a problem which is deserving of closer examination. In the present Questionnaire this problem has been dealt with somewhat incidentally. As regards this question the

Government only wants to point out that with reference to the attitude taken up by the Government towards the 40-hour week, it is evidently not possible to give an answer beforehand to the question of the length of a possible transitional period. The estimation of this question must depend upon circumstances. The same applies to the determination of the branches of industry in respect of which it might be advisable to introduce such a reduction.

With reference to what has been stated above and to the fact that a Convention on a general 40-hour week is not likely to be ratified by Sweden under present conditions without very considerable reservations, the Government has not considered it necessary to give more detailed answers to the Questionnaire than have been made through this statement.

### SWITZERLAND

The Government does not object to the reduction of hours of work by means of an international Convention. On various occasions however, it has, either through its representatives at the International Labour Conference, or in its replies to previous questionnaires, or in statements made in the Federal Chambers, expressed the view that so far-reaching a reform as the general reduction of hours of work to 40 in the week was only possible provided certain international conditions were fulfilled. Moreover, on each of these occasions the Government has drawn attention to the considerable difficulties with which the introduction of so short a working week would meet in Switzerland owing to the peculiarities of its economic system. Switzerland has no sea coast, is poorly supplied with raw materials and lives on its exports; the standard of living and the level of wages is comparatively high. For all these reasons the Government must be extremely cautious when considering measures which would necessarily endanger the economic equilibrium of the country still further, that equilibrium being in any event unstable and already seriously shaken by the recent depression.

By replying in detail to the Questionnaire, however, the Government wishes to show that it is not indifferent to the work of the International Labour Conference.

### TURKEY

The generalisation of the reduction of hours of work in industry, commerce and offices would not be devoid of inconvenience, at least as far as Turkey is concerned, since it is only recently that the 48-hour week was enforced in this country.

### UNION OF SOUTH AFRICA

There is little likelihood of the Union Government finding it possible to ratify any Convention reducing the number of working hours to 40 per week. In fact it has not, as yet, been possible to ratify the 48-hour Convention although, in practice, the 48-hour week is extensively observed and in one or two industries a shorter working week is enforced. The difficulties which face the Union Government in its approach to this question apply equally to numerous other Conventions, namely, the

peculiar problems which arise in any country in which a large proportion of the population is concentrated in a few comparatively large cities while the remainder is scattered throughout sparsely-populated areas of extensive dimensions. A further difficulty is found in the areas in which the native population is concentrated. It follows that whatever the attitude of the Union Government might be to the general principle of a reduction in working hours it would not be possible to contemplate the ratification of any such Convention that did not permit of its provisions being applied regionally by the Government of the country concerned.

The interest of the Union Government in the suggested Convention which forms the subject of this Questionnaire must, therefore (unless, as suggested in question 68, the Convention permits of its being applied regionally), be largely of an academic rather than of a practical nature. The replies to the specific questions which follow have been framed on this basis.

\* \* \*

Detailed replies to the Questionnaire were furnished by the Governments of the following countries: Australia (State of Western Australia), Belgium, Canada (Provinces of Manitoba and Ontario), Denmark, France, New Zealand, Spain, Switzerland, Union of South Africa and the United States of America.

The New Zealand Government sent its replies to questions 1 to 77 and indicated that the balance would be forwarded by a later mail. These replies, however, had not reached the Office at the time of going to press, and, if received, they will be submitted to the Conference in a supplementary report.

The detailed replies received are reproduced below, subdivided according to the subject matter of the various questions.

## FORM OF THE REGULATIONS

**1. Do you consider that the International Labour Conference should adopt:**

(a) a single Draft Convention, applying to industry, commerce and offices ?

or

(b) two Draft Conventions, applying respectively to:

(i) industry, and

(ii) commerce and offices ?

### AUSTRALIA

*Western Australia*

1. The reply is in the affirmative to paragraph (b).

## BELGIUM

1. (a) The reply is in the negative.
- (b) The reply is in the affirmative.

## CANADA

*Manitoba*

1. (a) The reply is in the negative.
- (b) The reply is in the affirmative.

*Ontario*

1. Yes; the Government of the Province of Ontario is of the opinion that the International Labour Conference should adopt two Draft Conventions, applying to

- (i) industry, and
- (ii) commerce and offices.

## DENMARK

1. The most practical method would no doubt be the adoption of two Conventions.

## FRANCE

1. (a) and (b) As regards the scope of the Draft Convention or Conventions, the French Government sees no particular advantage in one of the two systems as compared with the other and will support any measure likely to obtain the necessary majority for the adoption of a Draft Convention.

## NEW ZEALAND

1. The Government is in general agreement with the principle of reduction of hours of work in industry, commerce and offices. It supports the adoption of two Draft Conventions, the one applying to industry (the term "industry" is understood to exclude agriculture and domestic service), the other to commerce and offices.

## SPAIN

1. The Government considers it preferable to have two Conventions applying respectively to industry and to commerce and offices.

## SWITZERLAND

1. In view of the diversity of working conditions, it would be better to draw up two Draft Conventions, one applying to industry and arts and crafts (as understood in Switzerland) and the other to commerce and offices.

**UNION OF SOUTH AFRICA**

1. Two Conventions are preferred to one, but it is considered that any Convention applying to "commerce and offices" should have two parts: I. commerce and II. offices. If the proposal to extend the Convention to cover institutions such as hospitals and nursing homes is accepted, such institutions should be dealt with in a separate part and provision should be made for a Government to ratify any one or more parts.

**UNITED STATES OF AMERICA**

1. A separation of the regulations for industry from those for commerce and offices is desirable. The United States has now begun an extensive regulation of hours of work in industry. The standards of such regulations, the administrative procedures, and the scope of their application are all being worked out. It is recognised that the application in other countries of these standards involves variations both in administrative practices and in the scope of their application. The United States Government supports the adoption by the International Labour Conference of a Convention embodying these general standards. Concerning the field of commerce and offices, see reply to question 5.

**SCOPE****METHOD OF DETERMINATION OF SCOPE**

2. Do you consider that the scope of the international regulations should be determined by enumeration of the categories of undertakings and establishments in which are employed the manual and non-manual workers, including apprentices, to be covered?

**AUSTRALIA***Western Australia*

2. The reply is in the affirmative.

**BELGIUM**

2. The reply is in the affirmative.

## CANADA

*Manitoba*

2. The reply is in the affirmative.

*Ontario*

2. Yes; the Government of Ontario considers that the scope of the international regulations should be determined by enumeration of the categories of undertakings and establishments in which are employed the manual and non-manual workers, including apprentices, to be covered.

## DENMARK

2. The reply is in the affirmative.

## FRANCE

2. The reply is in the affirmative.

## NEW ZEALAND

2. This method is acceptable. It is suggested, however, that the enumeration should be as exhaustive as possible.

## SPAIN

2. The reply is in the affirmative.

## SWITZERLAND

2. (No reply is given.)

## UNION OF SOUTH AFRICA

2. Yes; but State undertakings should not be included as one of the categories. In the Union the conditions of service of State servants are controlled by special legislation. In many phases of State activity the payment of overtime is not the practice.

## UNITED STATES OF AMERICA

2. Yes, the broad classifications used in the subsequent questions are adequate.

## SCOPE AS REGARDS UNDERTAKINGS AND ESTABLISHMENTS

*Industrial Undertakings*

3. Do you consider that the international regulations should apply to the following categories of industrial undertakings:

- (a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed—including undertakings engaged in the generation, transformation or transmission of electricity or motive power of any kind ?
- (b) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, tele-communication installations, works for the production or distribution of electricity or gas, pipe lines, waterworks, or undertakings engaged in other similar work or in the preparation for, or laying the foundation of, any such work or structure ?
- (c) mines, quarries, and other works for the extraction of minerals from the earth, excluding mines from which coal, including lignite, is the only or principal mineral extracted ?

4. Do you consider that there are any other categories of industrial undertakings to which the international regulations should apply ?

## AUSTRALIA

*Western Australia*

- 3. (a) The reply is in the affirmative.
  - (b) The reply is in the affirmative.
  - (c) Hours have been reduced for underground workers.
4. All industrial undertakings should be included.

## BELGIUM

- 3. The reply is in the affirmative.
- 4. The reply is in the negative.

## CANADA

*Manitoba*

3. The reply is in the affirmative:
4. The reply is in the negative.

*Ontario*

3. Yes; the Government of Ontario considers the international regulations should apply to the categories of industrial undertakings enumerated in clauses (a), (b) and (c).

4. No; the Government of Ontario does not consider that there are any other categories of industrial undertakings to which the international regulations should apply.

## DENMARK

3 and 4. The Convention should no doubt in principle apply to the industrial undertakings covered by the Convention adopted in 1919 concerning hours of work in industry.

## FRANCE

3. Yes, in similar conditions to those already prescribed in the other Hours of Work Conventions.

4. The Draft Convention should be supplemented by a mention of undertakings for the distribution of gas, water and heat.

## NEW ZEALAND

3. It is agreed that the industrial undertakings set out in this Question be covered by the international regulations.

4. Packing for transit, [also packing of goods where performed separately from the productive process, should be included. It is considered that essential services such as postal, telegraph and telephone services should not be brought within the scope of a general Draft Convention. In New Zealand the 40-hour week applies to the postal, telegraph and telephone exchanges, which are controlled by the Government. These services, together with other essential services, such as mentioned in paragraph (d) of question 5 might well form the subject of a separate Convention. With the above exceptions it is agreed (see reply to question 15).

## SPAIN

3. The reply is in the affirmative for the three paragraphs of the question.

4. No, since transport is to be the subject of separate regulations.

### SWITZERLAND

3. Yes. The scope should be determined in the same way as that of previous Conventions. Switzerland, it is true, has not yet enacted any legislation applicable to mines, arts and crafts, or construction (above or below ground). For the time being, therefore, it has no means of enforcing an international Convention in these industries.

4. The reply is in the negative.

### UNION OF SOUTH AFRICA

3. (a) The reply is in the affirmative.

(b) Yes, if State activities are exempt. Several of the activities enumerated are conducted by the State in the Union.

(c) The reply is in the negative.

4. The reply is in the negative.

### UNITED STATES OF AMERICA

3. (a) Yes, with the exceptions noted in the reply to question 10.

(b) See reply to question 10.

(c) The reply is in the affirmative.

4. The reply is in the negative.

## SCOPE AS REGARDS UNDERTAKINGS AND ESTABLISHMENTS

### *Commercial Establishments and Offices*

5. Do you consider that the international regulations should apply to the following categories of commercial establishments and offices:

- (a) commercial or trading establishments, including postal, telegraph and telephone services and commercial or trading branches of any other establishments ?
- (b) establishments and administrative services in which the persons employed are mainly engaged in office work ?
- (c) mixed commercial and industrial establishments, unless they are deemed to be industrial undertakings ?
- (d) establishments, public or private, for the treatment or care particularly of the aged, sick, infirm, destitute or mentally unfit ?
- (e) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses ?
- (f) theatres and places of public amusement ?

6. Do you consider that there are any other categories of commercial establishments and offices to which the international regulations should apply ?

#### AUSTRALIA

##### *Western Australia*

5. (a) The reply is in the affirmative.
  - (b) The reply is in the affirmative.
  - (c) The reply is in the affirmative.
  - (d) (No reply is given.)
  - (e) The reply is in the affirmative.
  - (f) The reply is in the affirmative.
6. (No reply is given.)

#### BELGIUM

5. (a) Yes, but excluding the postal, telegraph and telephone services.
  - (b) The reply is in the negative.
  - (c), (d), (e) and (f) The reply is in the affirmative.
6. The reply is in the negative.

#### CANADA

##### *Manitoba*

5. The reply is in the affirmative.
6. The reply is in the negative.

##### *Ontario*

5. Yes; it is considered desirable that the international regulations should apply to the categories of commercial establishments and offices enumerated under clauses (a) to (f).
6. No; the Government of Ontario does not consider there are any other categories which should be included.

#### DENMARK

5 and 6. The Convention should cover the categories mentioned in question 5, but as regards public administrative services it should be compulsory to discuss its detailed application with the competent authorities.

**FRANCE**

5. (a) Yes, except for postal, telegraph and telephone services, which in France form a public administrative department.

- (b) The reply is in the affirmative.
- (c) The reply is in the affirmative.
- (d) The reply is in the affirmative.
- (e) The reply is in the affirmative.
- (f) The reply is in the affirmative.

6. The following establishments should be covered by the Draft Convention: establishments providing personal services.

**NEW ZEALAND**

5. It is agreed that the commercial establishments and offices set out in this question be covered by the international regulations.

6. No comment.

**SPAIN**

5. The reply is in the affirmative for all the paragraphs of the question.

6. It does not appear necessary to indicate other categories of establishments.

**SWITZERLAND**

5. (a), (b) and (c) Yes, except that the regulations should not apply to postal, telegraph and telephone services belonging to the State.

(d) The establishments in this category cannot be described as either commerce or offices and therefore do not come within the scope of the Convention. If they were to be covered, the scope would have to be enlarged.

(e) and (f) The same remarks as for (d). These establishments should rather be considered as forming a distinct branch.

6. The reply is in the negative.

**UNION OF SOUTH AFRICA**

5. (a) Yes; but excluding postal, telegraph and telephone services, which are State-controlled in the Union.

(b) Yes; excluding State activities. But the Convention should provide in a separate part for offices other than those conducted in connection with "Shops".

- (c) The reply is in the affirmative.
- (d) The reply is in the negative.

- (e) No; in the Union of South Africa it is impossible for such concerns to work on the basis of a 40-hour week.
- (f) Yes; special legislation would be necessary for the Union.
6. The reply is in the negative.

#### UNITED STATES OF AMERICA

5. Legislation in the United States at present specifically exempts certain broad classifications of commercial establishments, and the United States Government is not prepared to take a position at this time with reference to a Convention dealing with hours of work in commerce and offices.

6. See reply to question 5.

#### SCOPE AS REGARDS UNDERTAKINGS AND ESTABLISHMENTS

##### *Transport*

7. Do you consider that the general international regulations should apply:

- (a) to the transport services of the industrial undertakings and commercial establishments referred to in questions 3 to 6, where these services are used only to meet the requirements of these undertakings or establishments, are not open to public traffic and do not operate on public roads or inland waterways ?
- (b) to the parts or services of transport undertakings which have no direct and necessary connection with the operation of the transport services themselves (for instance, large engineering or repair shops, hotels, restaurants, bookstalls, etc., incorporated in the transport undertakings) ?

#### AUSTRALIA

##### *Western Australia*

7. The reply is in the affirmative.

#### BELGIUM

7. The reply is in the affirmative.

#### CANADA

##### *Manitoba*

7. The reply is in the affirmative.

*Ontario*

7. Yes; the general international regulations should apply to transport as outlined under clauses (a) and (b).

**DENMARK**

7. There is no objection to the inclusion of these categories too in the Convention.

**FRANCE**

7. (a) and (b) The reply is in the affirmative.

**NEW ZEALAND**

7. The international regulations should apply to services set out in sub-paragraph (a), also to those in sub-paragraph (b), except that emergency repair activities in engineering shops as distinguished from routine repair activities would preferably be dealt with in conjunction with the transport organisations themselves.

**SPAIN**

7. The reply is in the affirmative with regard to both paragraphs.

**SWITZERLAND**

7. (No reply is given.)

**UNION OF SOUTH AFRICA**

7. (a) The reply is in the negative.  
(b) The reply is in the negative.

**UNITED STATES OF AMERICA**

7. (a) Yes, as regards industrial undertakings referred to in question 3.

(b) Yes, in accordance with a definition of "transport services" worked out by the competent national authority.

**SCOPE AS REGARDS UNDERTAKINGS AND ESTABLISHMENTS***Possible Exemptions*

8. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations undertakings or establishments where only members of the employer's family are employed?

9. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations small undertakings or establishments ordinarily employing not more than six persons ?

10. Do you consider that there are any categories of undertakings or establishments, other than those referred to in questions 8 and 9, which the competent authority should be permitted to exempt ?

11. Do you consider that the competent authority should be required to consult the organisations of employers and workers concerned, where such exist, before exempting any categories of undertakings or establishments ?

#### AUSTRALIA

##### *Western Australia*

8. The reply is in the affirmative.
9. The reply is in the affirmative.
10. The reply is in the affirmative.
11. Not necessarily.

#### BELGIUM

8. The reply is in the affirmative.
9. The reply is in the negative.
10. The reply is in the negative.
11. The reply is in the negative.

#### CANADA

##### *Manitoba*

8. The reply is in the affirmative.
9. The reply is in the negative.
10. The reply is in the negative.
11. The reply is in the affirmative.

##### *Ontario*

8. Yes; the competent authority in each country should be permitted to exempt undertakings where only members of the employer's family are employed.

9. Yes; the competent authority in each country should be permitted to exempt small undertakings ordinarily employing not more than six persons.

10. The competent authority in each country should be permitted to exempt no other categories of undertakings or establishments.

11. Yes; before granting such exemptions, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist.

#### DENMARK

8. The reply is in the affirmative.

9. Although the exemption of small undertakings would inevitably place a considerable number of undertakings outside the scope of the Convention, the Government considers that in view of the technical difficulties that these undertakings would meet with in providing employment on a scale to correspond with the reduction in hours of work, the Convention should apply only to undertakings of over a certain size.

This question may therefore be answered in the affirmative.

10. As a general rule only those undertakings should be exempted from the application of the Convention in which the reduction of hours of work can hardly be expected to lead to the engagement of additional staff or in which it is impossible to exercise the necessary supervision. For each category of undertaking it would be necessary to consider whether exemptions to the reduced working hours should be allowed, but it is hardly possible to state in advance which undertakings ought to be exempted.

11. The reply is in the affirmative.

#### FRANCE

8. Yes, on condition that the term members of the family is taken to mean solely the wife (husband), children and wards under age of the head of the undertaking.

9. The reply is in the negative.

10. As far as the French Government itself is concerned, it does not propose the exclusion of any class of undertaking, but this is not incompatible with the possibility of providing in the case of certain of these categories that the principle of the reduction of hours of work laid down in the Draft Convention or Conventions should be adapted to the special conditions of their operation.

11. Yes, should the Draft Convention allow exceptions notwithstanding the opinion of the French Government.

#### NEW ZEALAND

8, 9 and 10. In the opinion of the Government an exemption clause is necessary, but size of an establishment is not a correct basis of exemption. Exemption should be related to the process involved rather than the unit of production. It is suggested that in each instance the right to exemption should be established before a prescribed tribunal. The

necessity for exemption particularly arises in respect of industries immediately associated with primary production where immediate handling of the product is an essential condition to its preservation, e.g. creameries, cheese and butter factories, meat, fish, vegetable and fruit preserving and ancillary trades.

11. The reply is in the affirmative.

#### SPAIN

8. The reply is in the negative.  
 9. The reply is in the negative.  
 10. The reply is in the negative.  
 11. The reply is in the affirmative (conditionally).

#### SWITZERLAND

8. The reply is in the affirmative.  
 9. The national authority ought to have such permission. The limit should perhaps be different for industry, handicrafts and commerce. In Switzerland the Factory Act provides for four limits: undertakings employing not more than five persons (using mechanical power but employing only adults; undertakings not using mechanical power but employing young persons); undertakings employing not more than ten persons (not using mechanical power nor employing young persons); undertakings of an industrial character attended by exceptional risks and employing not more than three persons. One might try to regulate commerce on the same lines. Switzerland could agree to a limit of five persons, instead of six as suggested by the Questionnaire.  
 10. Home work should also be exempted, as well as domestic service and of course agriculture and forestry.  
 11. Yes, provided the national authority may choose the method of consultation. This might for instance be organised as it is in Switzerland under the Factory Act in the form of a joint advisory committee (Federal Factory Committee), that is, a committee consisting of employers' and workers' representatives in equal numbers and of a few "neutral" members (men of science), with a representative of the Federal authority as chairman.

#### UNION OF SOUTH AFRICA

8. The reply is in the affirmative.  
 9. Yes; but the limit should be left to the competent authority provided the figure is not in excess of six.  
 10. The answer to this question depends upon the provisions included as to regional application. It should be provided that any of the classified undertakings or establishments located in such sparsely-populated areas as the competent authority may decide may be exempted.  
 11. The reply is in the affirmative.

## UNITED STATES OF AMERICA

8. The reply is in the affirmative.
9. The United States Government does not favour the blanket exemption of small establishments but does favour the elasticity afforded by permission to the competent authority to exempt certain small undertakings.
10. In the United States the regulations do not apply to industrial and commercial undertakings engaged primarily in local services and trade.
- There should be permission for the competent authority to exempt from the application of the Convention the first processing of agricultural products.
11. The reply is in the affirmative.

## SCOPE AS REGARDS PERSONS

12. Do you consider that the international regulations should apply to all manual and non-manual workers, including apprentices, employed in the undertakings or establishments covered ?

## AUSTRALIA

*Western Australia*

12. The reply is in the affirmative.

## BELGIUM

12. The reply is in the affirmative.

## CANADA

*Manitoba*

12. The reply is in the affirmative.

*Ontario*

12. Yes; it is considered advisable that the international regulations should apply to all manual and non-manual workers, including apprentices, employed in the undertakings covered.

## DENMARK

12. Yes. The international provisions should in principle apply to all manual and non-manual workers, including apprentices, employed in the undertakings or establishments covered.

## FRANCE

12. The reply is in the affirmative.

## NEW ZEALAND

12. It is agreed that the international regulations have the application contemplated by this question.

## SPAIN

12. The reply is in the affirmative.

## SWITZERLAND

12. Yes, subject to the exemptions mentioned under 13 (a). Voluntary workers might also be covered by the regulations.

## UNION OF SOUTH AFRICA

12. The reply is in the affirmative.

## UNITED STATES OF AMERICA

12. Yes, with the exceptions noted in replies to 13, 14 and 15. It must be made clear that such regulations apply only to the time when apprentices are actually at the disposal of an employer.

## SCOPE AS REGARDS PERSONS

*Possible Exemptions*

13. (a) Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations:

- (i) persons occupied in a position of management ?
- (ii) persons occupied in a confidential capacity ?

or

(b) do you prefer that this possibility of exemption should apply to classes of persons who by reason of their special responsibilities are not subject to the normal rules governing the length of the working time ?

14. Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations travellers and representatives, in so far as they carry on their work outside the undertaking or establishment ?

15. (a) Do you consider that the competent authority in each country should be permitted to exempt from the application of the international regulations the staffs, or parts of the staffs, of Government services, whether national, provincial or local, other than those employed in industrial or commercial activity (which includes postal, telegraph and telephonic services) ?

(b) Which are the staffs, or parts of staffs, of Government services which you consider the competent authority should be permitted to exempt ?

16. Do you consider that there are any categories of persons other than those referred to in questions 13 to 15, which the competent authority should be permitted to exempt ?

17. Do you consider that the competent authority should be required to consult the organisations of employers and workers concerned, where such exist, before exempting any categories of persons ?

#### AUSTRALIA

##### *Western Australia*

13. The reply is in the affirmative.

14. The reply is in the affirmative.

15. (a) The reply is in the affirmative.

(b) Men on essential services or continuous process.

16. Yes; caretakers, etc.

17. The reply is in the negative.

#### BELGIUM

13. (a) The reply is in the affirmative.

(b) The reply is in the negative.

14. The reply is in the affirmative.

15. (a) The reply is in the affirmative.

(b) The question does not arise, since in the opinion of the Belgian Government all officials of public administrations should be excluded from the scope of the regulations.

16. The reply is in the negative.

17. The reply is in the affirmative.

## CANADA

*Manitoba*

13. (a) The reply is in the affirmative.
14. The reply is in the negative.
15. (a) Parts of staffs.  
(b) Heads of departments.
16. The reply is in the negative.
17. The reply is in the affirmative.

*Ontario*

13. Yes; the competent authority in each country should be permitted to exempt
  - (a) persons occupied in a position of management;
  - (b) persons occupied in a confidential capacity.
14. Yes; the competent authority in each country should be permitted to exempt travellers and representatives.
15. Yes; the competent authority in each country should be permitted to exempt staffs or parts of staffs of Government services.
16. The competent authority in each country should be permitted to exempt no other categories of persons.
17. Yes; the competent authority should be required to consult the organisations of employers and workers concerned, where such exist.

## DENMARK

13. (a) Yes; see the corresponding exemption in the Washington Convention concerning the 8-hour day and in the 1930 Convention concerning hours of work in commerce and offices.  
(b) There is no reason to object to limiting the possibility of exemption in the manner indicated here.
14. The reply is in the affirmative.
15. (a) This possibility should not be excluded.  
(b) It is not possible to state in advance which staffs or parts of staffs should be covered by the exemption.
16. See in general the reply to question 10.
17. The reply is in the affirmative.

## FRANCE

13. (a) and (b) The only categories of persons that should be excluded from the application of the Draft Convention or Conventions

are persons who are responsible for the management of undertakings or parts of undertakings and may thus be treated on the same footing as the heads of undertakings.

14. The reply is in the affirmative.

15. (a) and (b) Yes, the French Government considers that all the categories of staffs, as defined in the national laws or regulations of each State, should be excluded from the application of the Convention, even in the case of services of an industrial or commercial nature, which include the staff of the postal, telegraph and telephone services.

16. The French Government cannot conceive of any categories to which the exemption should apply.

17. Yes, except the categories mentioned in question 15.

#### NEW ZEALAND

13. Exemptions as in sub-paragraph (a), (i) and (ii) are endorsed, but it is preferred that the possibility of exemption be set out more as in sub-paragraph (b). In the opinion of the Government, however, the right to exemption should not exist in the case of workers whose function is merely to exercise a supervisory control under the direction of another, e.g. a mere foreman or charge-hand should not be eligible for exemption.

14. If the definition of hours of work contemplated by a later paragraph is adopted, difficulty may arise in some cases unless travellers are exempted. Nevertheless it is felt that travelling representatives should not be exempted, but rather some flexibility provided to meet the position that arises through transit from place to place unless actual physical activity occurs during normal rest hours.

15. (a) The reply is in the affirmative.

(b) Essential public services should not be subject to the international regulations, a tribunal to determine the services to be regarded as essential in each case.

16. No comment.

17. The reply is in the affirmative.

#### SPAIN

13. The Government prefers the alternative given in paragraph (b)

14. The reply is in the affirmative.

15. (a) The reply is in the affirmative.

(b) High officials, especially those invested with public authority, and their immediate assistants; agents of public authority, and in cases of urgent necessity persons operating in a public service.

16. Further details do not appear necessary.

17. If the scope of the exception is suitably limited it does not appear necessary to require the competent authority to undertake this consultation.

#### SWITZERLAND

13. (a) The reply is in the affirmative.

(b) Any general exemption of such persons would no doubt be too far-reaching, since the words "special responsibilities" might be interpreted too extensively; on the other hand the regulations might be made more flexible for this class of persons.

14. The reply is in the affirmative.

15. (a) The reply is in the affirmative.

(b) Officials whose appointment is governed by public law and persons employed in public departments whose appointment is governed by private law. The public postal, telegraph and telephone service should be exempted.

16. Persons who are not employed in the operation of the undertaking, for instance those exclusively employed in cleaning premises or in social services (kitchens, canteens, welfare work, infant schools, etc.).

17. Yes, the same remarks apply as in the case of question 11.

#### UNION OF SOUTH AFRICA

13. (a) (i) The reply is in the negative.

(ii) The reply is in the affirmative.

14. Yes; it is impracticable to apply such a measure to persons over whose hours of work the employer has no direct control.

15. (a) Yes; but those employed in industrial and commercial activity should also be included.

(b) All.

16. Facilities for exempting any category should be included—the competent authority to decide.

17. The reply is in the affirmative.

#### UNITED STATES OF AMERICA

13. In the regulations drawn up by the competent authority exemption should be permitted for classes of persons who, by reason of their special responsibilities, are not subject to the normal rules governing the length of the working time. Such regulations should not permit an exemption to apply to a substantial proportion of the employees of any undertaking.

14. The reply is in the affirmative.

15. (a) The reply is in the affirmative.
- (b) The regulation of any part of the staff of Government services should be left to the discretion of the competent authority.
16. The reply is in the negative.
17. The reply is in the affirmative.

## LIMITATION OF NORMAL HOURS OF WORK

### DEFINITION OF HOURS OF WORK

18. Do you consider that the international regulations should include a definition of hours of work ?
19. Do you consider that the following definition should be included in the international regulations :

“ The term ‘hours of work’ means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements ” ?

### AUSTRALIA

*Western Australia*

18. The reply is in the affirmative.
19. The reply is in the affirmative.

### BELGIUM

18. The reply is in the affirmative.
19. The reply is in the affirmative.

### CANADA

*Manitoba*

18. The reply is in the affirmative.
19. The reply is in the affirmative.

*Ontario*

18. The reply is in the affirmative.
19. It is considered desirable that the international regulations should include the following definition:

"The term 'hours of work' means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements."

#### DENMARK

18. The reply is in the affirmative.
19. The Danish Government could, in principle, accept the proposed definition.

#### FRANCE

18. The reply is in the affirmative.
19. The French Government considers that hours of work should be defined for the purposes of the Draft Convention or Conventions as the time during which the staff is at the disposal of the employer, on condition that when the work normally includes periods of inactivity, this should be taken into account by means of an extension, to be determined, of the hours of attendance.

#### NEW ZEALAND

18. A definition of hours of work is essential.
19. This definition is acceptable.

#### SPAIN

18. The reply is in the affirmative.
19. The Government considers this definition more suitable than that contained in similar Conventions.

#### SWITZERLAND

- 18 and 19. The reply is in the affirmative.

#### UNION OF SOUTH AFRICA

18. The reply is in the affirmative.
19. A definition should be included but the proposed definition is too wide. If, as is suggested in question 5 (d), the Convention should apply to hospitals the definition becomes impossible. Except when allowed to leave, the hospital nurses are always "on call" even when not "on duty". If the suggestion that the Convention be divided in separate Parts is adopted, each Part should contain an appropriate definition.

## UNITED STATES OF AMERICA

18. The reply is in the affirmative.
19. The reply is in the affirmative.

## GENERAL LIMITATION OF NORMAL HOURS OF WORK FOR NOT NECESSARILY CONTINUOUS PROCESSES

20. Do you consider that the international regulations should limit normal weekly hours of work to 40 ?

21. Do you consider that the competent authority should be authorised to permit by regulation the calculation of the normal limit of hours of work as an average over a period exceeding one week ?

22. Do you consider that the competent authority, before permitting the normal limit of hours of work to be calculated as an average over a period exceeding one week, should be required to consult the organisations of employers and workers concerned, where such exist ?

23. If the calculation of the normal limit of hours of work as an average over a period exceeding one week is permitted, do you consider that the period over which the limit of hours may be calculated should be determined by regulation by the competent authority in each country ?

## AUSTRALIA

*Western Australia*

20. Yes, provided this is applied universally.
21. The reply is in the affirmative.
22. No, as far as the Government is concerned. If the Arbitration Court is the competent authority, employers and workers would submit their views.
23. The reply is in the affirmative.

## BELGIUM

20. The reply is in the affirmative.
21. The reply is in the affirmative.
22. The reply is in the affirmative.
23. The reply is in the affirmative.

## CANADA

*Manitoba*

20. The reply is in the affirmative.
21. The reply is in the affirmative.
22. The reply is in the affirmative.
23. The reply is in the affirmative.

*Ontario*

20. Yes; the Government of Ontario considers it desirable that the international regulations should limit the normal weekly hours of work to 40.
21. Yes; the Government of Ontario considers it desirable that the competent authority should be authorised to permit the calculation of the normal limit of hours of work as an average over a period exceeding one week.
22. Yes; the Government of Ontario considers it desirable that the competent authority should first consult the organisations of employers and workers concerned, where such exist.
23. Yes; the Government of Ontario considers it desirable that the period for such calculation should be determined by regulation by the competent authority in each country.

## DENMARK

20. It should be agreed that in the international regulations the normal weekly hours of work should be limited to 40.
21. In the opinion of the Government the period over which the calculation of hours of work as an average would be permitted should not be too long. A maximum period not exceeding six weeks might be considered suitable.
22. The reply is in the affirmative.
23. The reply is in the affirmative.

## FRANCE

20. The reply is in the affirmative.
21. The reply is in the affirmative.
22. The reply is in the affirmative.
23. The reply is in the affirmative.

**NEW ZEALAND**

20. The Government is in general agreement with the principle of the limitation of normal hours of work to 40 in each week, subject to the establishment of a tribunal to determine whether in respect of any category or undertaking such a limitation is impracticable.

21. The competent authority should be so authorised in respect of specified cases and not as a general rule. Necessity for the exercise of this arrangement will be found to arise largely in those industries where seasonal influences operate.

22. The reply is in the affirmative.

23. It would appear to be impracticable to lay down internationally uniform rules in respect of the period over which hours of work should be averaged. Thus the task should be left to the competent authority in each country.

**SPAIN**

20. The reply is in the affirmative.

21. The reply is in the affirmative.

22. The reply is in the affirmative.

23. The reply is in the affirmative.

**SWITZERLAND**

20. No, see the introductory remarks and the reasons given for the replies to earlier questionnaires.

21. The reply is in the affirmative.

22. Yes, subject to the same reservation as was made in the reply to question 11.

23. The reply is in the affirmative, but it is suggested that the Convention should go still further and provide that the period may also be determined by means of special permits issued by the authority or under an agreement approved by the authority.

**UNION OF SOUTH AFRICA**

20. The reply is in the negative.

21. Yes, particularly for work such as transport.

22. The reply is in the affirmative.

23. The reply is in the affirmative.

## UNITED STATES OF AMERICA

20. Yes. See the reply to question 62.
21. Yes, under strictly defined conditions. Present legislation in the United States does not permit the competent authority to authorise such calculation unless:
- (1) in pursuance of an agreement made as a result of collective bargaining by bona fide representatives of employees which provides that no employee shall be employed more than 1,000 hours during any period of 26 consecutive weeks; or
- (2) the employee is employed on an annual basis in pursuance of a collective agreement made by bona fide representatives of employees which provides that the employee shall not be employed more than 2,000 hours during any period of 52 consecutive weeks.
22. See reply to question 21.
23. See reply to question 21.
- LIMITATION OF NORMAL HOURS OF WORK FOR  
NECESSARILY CONTINUOUS PROCESSES**
24. Do you consider that, in the case of necessarily continuous processes, namely, processes required by reason of the nature of the process to be carried on by a succession of shifts without a break at any time of the day, night or week, the international regulations should limit the normal weekly hours of work to 42 ?
25. Do you consider that the processes in respect of which this limit should apply should be determined by regulation by the competent authority in each country ?
26. Do you consider that the normal weekly limit of hours for necessarily continuous processes should be calculated as an average over a period exceeding one week ?
27. If the calculation of the normal limit of hours of work for necessarily continuous processes as an average over a period exceeding one week is permitted, do you consider that the period over which the limit of hours may be calculated should be determined by the competent authority in each country ?
28. Do you consider that, before determining the period over which the limit of hours for necessarily continuous processes may be calculated, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

## AUSTRALIA

### *Western Australia*

24. The reply is in the negative.
25. The reply is in the affirmative.
26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. In the case of the Arbitration Court this would naturally happen. The employers and workers would submit their views. There is an Arbitration Court in Western Australia.

## BELGIUM

24. The reply is in the affirmative.
25. The definition of necessarily continuous processes should be left to the authority of each country to determine either by regulations or in some other manner.
26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

## CANADA

### *Manitoba*

24. The reply is in the affirmative.
25. The reply is in the affirmative.
26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

### *Ontario*

24. Yes; the Government of Ontario considers it desirable that in the case of necessarily continuous processes, the international regulations should limit the normal weekly hours of work to 42.
25. Yes; the Government of Ontario considers it desirable that such processes should be determined by regulation by the competent authority in each country.
26. Yes; the Government of Ontario considers it desirable that the normal weekly limit should be calculated as an average over a period exceeding one week.

27 and 28. Yes; the Government of Ontario considers it desirable that the competent authority should first consult the organisations of employers and workers concerned, where such exist, before determining the period over which the limit of hours may be calculated.

#### DENMARK

24. It should be agreed that in the international regulations the normal weekly hours of work for these categories should be limited to 42.
25. The reply is in the affirmative.
26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

#### FRANCE

24. The reply is in the affirmative.
25. The reply is in the affirmative.
26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

#### NEW ZEALAND

24. A limit of 40 hours is favoured throughout with a right of extension by the established tribunal if a limit of 40 hours a week is impracticable. In New Zealand, the Factories Act prescribes a limit of 40 hours, but permits an extension to not more than 44 (certain trades—mainly where seasonal work is involved—are excluded from limit).

25. The method of application suggested is set out in the reply to question 24.
26. Such a method should be authorised in specified cases or for stated reasons and not as a general rule.
27. This is agreed to.
28. The reply is in the affirmative.

#### SPAIN

24. The reply is in the affirmative.
25. The reply is in the affirmative.

26. The reply is in the affirmative.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

#### SWITZERLAND

24. No, for the same reasons as were given in reply to question 20.
25. Yes, but it should also be possible to determine the processes by means of special permits where this system exists.
26. The reply is in the affirmative.
27. The same reply as to question 23.
28. Yes, the same remarks apply as in the case of question 11.

#### UNION OF SOUTH AFRICA

24. No; — 48.
25. The reply is in the affirmative.
26. Yes; this will provide greater elasticity.
27. The reply is in the affirmative.
28. The reply is in the affirmative.

#### UNITED STATES OF AMERICA

24. No longer hours for such occupations are permitted by the present legislation in the United States.
25. See reply to question 24.
26. See reply to question 24.
27. See reply to question 24.
28. See reply to question 24.

#### SPECIAL LIMITATION OF NORMAL HOURS OF WORK FOR CERTAIN CATEGORIES OF UNDERTAKINGS OR OCCUPATIONS

29. Do you consider that the international regulations should recognise the principle that the competent authority may authorise normal weekly hours of work in excess of 40 in respect of any undertaking or branch thereof, falling within the categories referred to in questions 31 to 36, in the cases in which the nature of the work of a considerable proportion of the persons employed is such that it com-

prises periods of activity interrupted by substantial periods of inactivity or mere presence ?

30. If the reply to question 29 is in the affirmative, do you consider that the competent authority should determine the categories of persons employed in any such undertaking or branch thereof in respect of whom the longer limit may, owing to the nature of their work, apply ?

#### *Retail and Service Trades*

31. Do you consider that the international regulations should authorise the competent authority to apply a normal weekly limit of hours of work not exceeding 44 to all or certain persons employed in establishments in the retail and service trades ?

32. Do you consider that, notwithstanding the limit suggested in question 31, the international regulations should authorise the competent authority to apply a normal weekly limit of hours not exceeding 48 to all or certain persons employed in establishments in the retail and service trades which, owing to their nature, are customarily required by the public to remain open during prolonged periods of the day or week or at unforeseen times ?

#### *Hotels, Restaurants and Similar Establishments*

33. Do you consider that the international regulations should authorise the competent authority to apply a normal weekly limit of hours not exceeding 52 to all or certain persons employed in hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses ?

#### *Curative Establishments*

34. Do you consider that the international regulations should authorise the competent authority to apply a normal weekly limit of hours not exceeding 48 to all or certain persons employed in public or private establishments for the treatment or care particularly of the aged, sick, infirm, destitute or mentally unfit ?

#### *Theatres and Places of Amusement*

35. Do you consider that the international regulations should authorise the competent authority to apply a normal weekly limit of hours not exceeding 48 to all or certain persons employed in theatres and places of public amusement ?

#### *Other Undertakings*

36. (a) Do you consider that the international regulations should authorise the competent authority to apply a normal weekly limit of

hours in excess of 40 for other categories of undertakings or occupations and, if so, for which categories ?

(b) If the reply is in the affirmative, what limits do you consider should be provided for the categories of undertakings or occupations suggested ?

37. (a) Do you consider that the competent authority should be authorised to permit by regulation the calculation of the special limits of normal weekly hours of work for the categories of undertakings or occupations referred to in questions 31 to 36 as an average over a period exceeding one week ?

(b) If the reply is in the affirmative, do you consider that the period over which the special limits of normal hours of work may be calculated should be determined by the competent authority in each country ?

38. Do you consider that, before authorising the use of any of the provisions which may arise out of the replies to questions 29 to 37, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

#### AUSTRALIA

##### *Western Australia*

29. The reply is in the affirmative.
30. Yes, such as caretakers and watchmen.
31. The reply is in the affirmative.
32. The reply is in the affirmative.
33. The reply is in the affirmative.
34. The competent authority should have the right to decide hours. The 44-hour week was recently refused by the Court of Arbitration to nurses. Matrons were exempted from the hours' clause.
35. These people are mostly controlled by Federal bodies over which this State has no jurisdiction.
36. (No reply is given.)
37. The reply is in the affirmative.
38. The reply is in the affirmative.

#### BELGIUM

29. The reply is in the affirmative.
30. The reply is in the affirmative.
31. The reply is in the affirmative.

32. The reply is in the affirmative.
33. Yes, in so far as normal weekly hours of work do not exceed 48.
34. The reply is in the affirmative.
35. The reply is in the affirmative.
36. (a) The reply is in the negative.  
(b) The question does not arise.
37. (a) The reply is in the negative.  
(b) The question does not arise.
38. The reply is in the affirmative.

### CANADA

#### *Manitoba*

29. The reply is in the affirmative.
30. The reply is in the affirmative.
31. The reply is in the affirmative.
32. The reply is in the affirmative.
33. No, not to exceed 48 hours.
34. The reply is in the affirmative.
35. Yes, but moving picture operators less than 48 hours.
36. (a) Industrial.  
(b) 44 hours.
37. (a) and (b) The reply is in the affirmative.
38. The reply is in the affirmative.

#### *Ontario*

29. Yes; the Government of Ontario considers it desirable that the international regulations should recognise the principle that the competent authority may authorise normal weekly hours of work in excess of 40 in respect of undertakings as outlined where considerable periods of inactivity exist.
30. Yes; the Government of Ontario considers it desirable that the international regulations should provide that the competent authority should determine the categories of persons referred to in question 29.
31. Yes; the Government of Ontario considers it desirable that the international regulations should authorise the competent authority to apply a normal weekly limit of hours of work, not exceeding 44, to persons employed in the retail and service trades.
32. Yes; the Government of Ontario considers it desirable that the international regulations should authorise the competent authority to

apply normal weekly limits of hours of work, not exceeding 48, to such establishments as are required to remain open for prolonged periods.

33. Yes; the Government of Ontario considers it desirable that the international regulations should authorise the competent authority to apply normal weekly limits of hours, not exceeding 52, in hotels, restaurants, boarding-houses, clubs, cafés, and other refreshment houses.

34. Yes; the Government of Ontario considers it desirable that international regulations should authorise the competent authority to apply a normal weekly limit of hours, not exceeding 48, in establishments for the treatment or care of the sick or infirm.

35. Yes; the Government of Ontario considers it desirable that the international regulations should authorise the competent authority to apply a normal weekly limit of hours, not exceeding 48, for theatres and places of amusement.

36. The Government of Ontario considers it desirable that the international regulations should authorise the competent authority to apply a normal weekly limit of hours of work in excess of 40 to no other categories of undertakings.

37. Yes; the Government of Ontario considers it desirable that the competent authority in each country should permit by regulation the calculation of the special limits referred to in questions 31 to 36, and determine the period over which the calculation may be made.

38. Yes; it is considered advisable that the competent authority in each country should be required to consult the organisations of employers and workers, where such exist.

#### DENMARK

29. The reply is in the affirmative.

30. The reply is in the affirmative.

31 to 35. In principle these questions can be answered in the affirmative.

36. (a) and (b) The competent authority should no doubt be empowered to authorise exceptions to the normal weekly limit of 40 hours in exceptional cases when decisive reasons justify such action; it is not possible to decide in advance on the limits of hours to be provided for these cases.

37. (a) and (b) The replies are in the affirmative.

38. The reply is in the affirmative.

#### FRANCE

29. Yes, when the work normally includes periods of inactivity or mere presence.

30. Yes, the competent authority should fix not only the categories but the longer limit of hours to be applied to these categories.

31. The reply is in the affirmative.
32. The reply is in the affirmative.
33. Yes, but for cooks the hours of presence should be reduced to 45 in the week.
34. The reply is in the affirmative.
35. The reply is in the affirmative.
36. (a) The reply is in the negative.  
(b) The question does not arise.
37. (a) and (b). The replies are in the affirmative.
38. The reply is in the affirmative.

#### NEW ZEALAND

29. So long as a worker is employed as defined in question 19, no special limitation should be granted.

30. No comment.

31. The limitation should follow the general rule enunciated in the reply to question 24, viz. a limit of 40 hours with a right of extension by the established tribunal if such limit is impracticable. While it is true that the New Zealand Shops and Offices Act contains a limit of 44 hours, the limit of 40 hours nevertheless operates as a result of the provisions of the Industrial Conciliation and Arbitration Act, i.e. by agreement between employers and workers in the case of licensed hotels. The Court of Arbitration, however, has, so far, not applied the 40-hour week to retail shops.

32. Retail establishments that are required to remain open during prolonged periods might overcome any difficulty concerning limitation of hours of workers by staggering the periods during which workers shall be employed. However, this necessity does not arise in New Zealand.

33. A limit of 52 hours is not supported. There appears here to be no reason to depart from the general rule. In New Zealand, the 40-hour week has been applied in hotels by agreement between the employers and workers.

34. See reply to question 5.

35. A 40-hour week has already been applied by the Court of Arbitration to certain workers employed in picture theatres. The question is one that might be left to a tribunal without specifying the weekly hours.

36. It is considered that application to other undertakings or occupations should only be pursuant to the general rule enunciated in the reply to question 24.

37. It is suggested that authorisation should be given in specified cases or for stated reasons and not as a general rule. It will probably be found that some provision should be effected in respect of hotels

in holiday resorts. It is possible also to justify averaging of hours in curative establishments, but not in respect of retail or service trades or theatres.

38. The reply is in the affirmative.

#### SPAIN

29. The reply is in the affirmative.  
30. The reply is in the affirmative.  
31. The reply is in the negative.  
32. The reply is in the negative.  
33. The Government considers the limit of 52 hours excessive and proposes one of 48 hours.  
34. The reply is in the affirmative.  
35. The reply is in the affirmative.  
36. It does not appear necessary to indicate other categories of undertakings.  
37. The reply is in the affirmative with regard to both paragraphs.  
38. The reply is in the affirmative.

#### SWITZERLAND

29 and 30. This would be absolutely necessary if the principle of the 40-hour week were adopted. Indeed the question arises whether it would not be better to provide that an extension of the hours of work might from the outset be authorised for all the categories referred to in questions 31 to 36. A further question is whether, at least as regards the categories covered by questions 33, 34 and 35 it would not be more reasonable to regulate the daily rest rather than the hours of work. That is the method adopted in Switzerland in the Federal Draft Bill of 1935 concerning employment in commerce and handicrafts.

31 and 32. A 44-hour week is too short for retail establishments, since they meet daily needs and have to allow for customers' habits; in many cases even a 48-hour week would not be long enough. In the Federal Draft Bill mentioned above, a working week of 52 hours is provided for shops.

- 33, 34 and 35. See reply to questions 29 and 30.

36. Hours of work might be fixed at 52 in the week for small establishments unless these are entirely exempted as suggested in the reply to question 9.

- 37 and 38. Yes, subject to the reservations mentioned.

## UNION OF SOUTH AFRICA

29. The reply is in the affirmative.
30. The reply is in the affirmative.
31. No; the limit of 44 hours is too low for the requirement of the Union.
32. There is no justification for the extension of the limit to be prescribed, provided this is not below 46.
33. Special conditions are necessary for this trade, but a limit of 52 hours could only be applied in densely populated areas, and then not to all classes of employees.
34. It is impracticable to apply a general Convention to this group. It is an occupation which by reason of its peculiar nature would require a separate Convention or at least a separate part.
35. Yes; in a separate part.
36. The question does not arise in view of the fact that the 40-hour week is not supported.
37. (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.
38. The reply is in the affirmative.

## UNITED STATES OF AMERICA

29. See reply to question 5.
30. See reply to question 5.
31. See reply to question 5.
32. See reply to question 5.
33. See reply to question 5.
34. See reply to question 5.
35. See reply to question 5.
36. See reply to question 5.
37. See reply to question 5.
38. See reply to question 5.

## MAKING UP LOST TIME

39. Do you consider that the international regulations should provide for the possibility of making up time lost through collective stoppages of work ?

40. If the reply to question 39 is in the affirmative, do you consider that the possibility of making up time lost through collective stoppages of work should be provided for in cases resulting from:

- (a) accidental causes or causes of *force majeure* ?
- (b) weather conditions ?
- (c) public holidays falling on a working day ?

41. Do you consider that the competent authority should be required, in cases in which provision is made for making up time lost through collective stoppages of work, to determine:

- (a) the conditions under which lost time may be made up ?
- (b) the period within which lost time may be made up ?
- (c) the maximum extension of weekly hours permitted ?

42. Do you consider that, before determining the conditions under which lost time may be made up, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

#### AUSTRALIA

##### *Western Australia*

- 39. The reply is in the negative.
- 40. The question does not arise.
- 41. The question does not arise.
- 42. The question does not arise.

#### BELGIUM

- 39. Yes, but only in certain special cases defined below.
- 40. (a) and (b) The reply is in the affirmative.  
(c) The reply is in the negative.
- 41. The reply is in the affirmative.
- 42. The reply is in the affirmative.

#### CANADA

##### *Manitoba*

- 39. The reply is in the affirmative.
- 40. (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.  
(c) For public service only.

41. The reply is in the affirmative.
42. The reply is in the affirmative.

*Ontario*

39. Yes; the Government of Ontario considers that the international regulations should provide for the possibility of making up lost time because of collective stoppages of work.

40. The reply is in the affirmative.
41. The reply is in the affirmative.
42. The reply is in the affirmative.

**DENMARK**

39. The reply is in the affirmative.
40. The reply is in the affirmative.
41. The reply is in the affirmative.
42. The reply is in the affirmative.

**FRANCE**

39. The French Government considers that time lost through all collective stoppages of work, except stoppages due to strikes or lock-outs, should be made up.

40. The reply is in the affirmative.
41. The reply is in the affirmative.
42. Yes, the organisations of employers and workers concerned should be consulted before the regulations determining the conditions under which lost time may be made up are promulgated.

**NEW ZEALAND**

39. The reply is in the affirmative.
40. It is agreed that the possibility of making up lost time apply to cases (a) and (b), but not to case (c).
41. The reply is in the affirmative.
42. The reply is in the affirmative.

**SPAIN**

39. The reply is in the affirmative.
40. The reply is in the affirmative.

41. The reply is in the affirmative.
42. The reply is in the affirmative.

### SWITZERLAND

39 and 40. The reply is in the affirmative, but it is asked why provision should only be made for making up time lost through collective stoppages. The same provision may be necessary in individual cases.

41. The reply may be in the affirmative, but the regulations should be as flexible as possible.
42. Yes; the same remarks apply as in the case of question 11.

### UNION OF SOUTH AFRICA

39. The reply is in the negative.
40. The question does not arise.
41. The question does not arise.
42. The question does not arise.

### UNITED STATES OF AMERICA

39. The reply is in the negative.
40. See reply to question 39.
41. See reply to question 39.
42. See reply to question 39.

## EXTENSIONS OF HOURS OF WORK

### EXTENSIONS FOR CERTAIN CATEGORIES OF WORK OR OF OCCUPATION

43. Do you consider that the international regulations should provide that the competent authority in each country may permit extensions of the normal hours of work in the case of persons engaged in:

- (a) preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, branch or shift ?
- (b) essentially intermittent work which by its nature consists of long periods of inaction during which the persons concerned (for

instance, caretakers, night watchmen, doorkeepers, fire services and other staff) have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls ?

- (c) work which, for technical reasons, cannot be interrupted at will or which must be completed in order to prevent the deterioration of raw materials or manufactured goods ?
- (d) work required to co-ordinate the work of two succeeding shifts ?
- (e) work necessary for stocktaking and the preparation of balance-sheets, settlement days, liquidations and the balancing and closing of accounts ?

44. (a) Do you consider that there are any other cases in which the extensions referred to in question 43 should be permitted ?

(b) If the reply is in the affirmative, in which other cases do you consider that the extensions should be permitted ?

45. Do you consider that the competent authority in each country should be required to determine by regulation for each of the cases referred to in questions 43 and 44 the limits up to which and the conditions under which the extensions may be granted ?

46. Do you consider that before issuing regulations permitting the extensions referred to in questions 43 and 44, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

#### AUSTRALIA

*Western Australia*

- 43. The reply is in the affirmative.
- 44. (No reply is given.)
- 45. The reply is in the affirmative.
- 46. The reply is in the affirmative.

#### BELGIUM

43. (a), (b) and (c) The replies are in the affirmative.  
(d) and (e) The replies are in the negative.

- 44. (a) The reply is in the negative.  
(b) The question does not arise.
- 45. The reply is in the affirmative.
- 46. The reply is in the affirmative.

## CANADA

*Manitoba*

43. The reply is in the affirmative.
44. The reply is in the negative.
45. The reply is in the affirmative.
46. The reply is in the affirmative.

*Ontario*

43. Yes; it is desirable that the international regulations should provide that the competent authority in each country may permit extensions of the normal hours of work in the case of persons outlined in clauses (a) to (e).

44. It is desirable that the international regulations should provide that the competent authority in each country may permit extensions of the normal hours of work in no other cases.

45. The reply is in the affirmative.
46. The reply is in the affirmative.

## DENMARK

43. Yes, but account should be taken of the exception provided in Article 6 (b) of the Washington Convention concerning the 8-hour day.

44. At present the Government is unaware of cases other than those mentioned in question 43 in which extensions are required.

45. The reply is in the affirmative.
46. The reply is in the affirmative.

## FRANCE

43. (a), (b), (c) and (d) The reply is in the affirmative.

(e) The French Government considers that this work should be carried out by recourse, if need be, to the overtime allowance for exceptional pressure of work.

44. (a) The reply is in the negative.
- (b) The question does not arise.
45. The reply is in the affirmative.
46. The reply is in the affirmative.

## NEW ZEALAND

43. (a) This is agreed to with, however, restrictions as to time.
- (b) Yes—as determined by the established tribunal in essential cases.

- (c) Yes—as determined by the established tribunal.
  - (d) Yes—providing compensation is effected by reduction of normal hours in the subsequent week.
  - (e) No—extensions in such cases to be permissible only as overtime.
44. Such cases should be determined by the established tribunal.
45. The reply is in the affirmative.
46. The reply is in the affirmative.

#### SPAIN

43. The reply is in the affirmative.
44. The reply is in the negative.
45. The reply is in the affirmative.
46. The reply is in the affirmative.

#### SWITZERLAND

43. The reply is in the affirmative.
44. (a) and (b) An extension may be necessary when the business outlook for the establishment is poor or when the establishment has not previously been covered by legislation concerning hours of work and is seriously affected by the enforcement of the regulations.
45. Yes, but provision should also be made for extension by means of special permits.
46. Yes; the same remarks apply as in the case of question 11.

#### UNION OF SOUTH AFRICA

43. The question appears to contemplate an extension without the payment of overtime. If this is correct the reply is:
- (a) in the negative.
  - (b) in the affirmative.
  - (c) in the negative.
  - (d) in the negative.
  - (e) in the negative.
44. No; i.e. without the payment of overtime.
45. Yes; if the provision is included.
46. The reply is in the affirmative.

## UNITED STATES OF AMERICA

43. Exceptional hours are not permitted in American practice to such categories of work. It is recognised, however, that flexibility of an international treaty may make such permissible extensions desirable.

44. See reply to question 43.
45. See reply to question 43.
46. The reply is in the affirmative.

## EXTENSIONS FOR ACCIDENTAL CIRCUMSTANCES

47. Do you consider that the international regulations should permit the normal limits of hours of work to be exceeded:

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*, but only in so far as may be necessary to avoid serious interference with the ordinary working of the undertaking?
- (b) in order to make good the unforeseen absence of one or more members of a shift?

## AUSTRALIA

*Western Australia*

47. The reply is in the affirmative.

## BELGIUM

47. The reply is in the affirmative.

## CANADA

*Manitoba*

47. The reply is in the affirmative.

*Ontario*

47. Yes; it is desirable that the international regulations should permit the normal limits of hours to be exceeded in case of accident, etc., and in order to make good the unforeseen absence of one or more members of the shift.

## DENMARK

47. The reply is in the affirmative.

## FRANCE

47. The reply is in the affirmative.

## NEW ZEALAND

47. Yes, with sufficient safeguards and payment of overtime rates.

## SPAIN

47. The reply is in the affirmative.

## SWITZERLAND

47. The reply is in the affirmative.

## UNION OF SOUTH AFRICA

47. (a) No; unless as paid overtime.

(b) The reply is in the negative.

## UNITED STATES OF AMERICA

47. (a) The reply is in the affirmative.

(b) No. However, although it is undesirable to permit an extension of the normal hours of work for such cases, extensions on the basis of overtime pay should be permitted. See reply to question 55.

## EXTENSIONS FOR LACK OF SKILLED WORKERS

48. Do you consider that the international regulations should provide that the competent authority in each country may permit extensions of the normal hours of work in cases of proven lack of skilled workers?

49. Do you consider that the competent authority in each country should be required to determine by regulation the limits up to which and the conditions under which the extensions referred to in question 48 may be granted?

50. Do you consider that before issuing regulations permitting the extensions referred to in question 48, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist?

## AUSTRALIA

*Western Australia*

48. The reply is in the affirmative.
49. The reply is in the affirmative.
50. The reply is in the affirmative.

## BELGIUM

48. The reply is in the negative.
49. The question does not arise.
50. The question does not arise.

## CANADA

*Manitoba*

48. The reply is in the affirmative.
49. The reply is in the affirmative.
50. The reply is in the affirmative.

*Ontario*

48. Yes; it is desirable that the international regulations should provide that the competent authority may permit extensions of normal hours of work in case of proven lack of skilled workers.
49. Yes; it is desirable that the international regulations should provide that the proven lack of skilled workers should be determined by regulation of the competent authority.
50. Yes; it is desirable that the international regulations should require the consultation of the organisations of employers and workers concerned, where such exist.

## DENMARK

48. The reply is in the affirmative.
49. The reply is in the affirmative.
50. The reply is in the affirmative.

## FRANCE

48. Yes, but with special safeguards.
49. The reply is in the affirmative.
50. The reply is in the affirmative.

**NEW ZEALAND**

48. Extensions in such circumstances should be possible only as overtime.

49. No comment.

50. The reply is in the affirmative.

**SPAIN**

48. The reply is in the affirmative.

49. The reply is in the affirmative.

50. The reply is in the affirmative.

**SWITZERLAND**

48. The reply is in the affirmative.

49. Yes, but the regulations should not be rigid.

50. Yes; the same remarks apply as in the case of question 11.

**UNION OF SOUTH AFRICA**

48. No, unless overtime is paid.

49. The question does not arise.

50. The question does not arise.

**UNITED STATES OF AMERICA**

48. No. However, although it is undesirable to permit an extension of the normal hours of work for such cases, extensions on the basis of overtime pay should be permitted. See reply to question 55.

49. See reply to question 48.

50. See reply to question 48.

**EXTENSIONS FOR CATEGORIES OF UNDERTAKINGS OR ESTABLISHMENTS WHOSE ACTIVITY IS SUBJECT TO SEASONAL FLUCTUATIONS**

51. Do you consider that the international regulations should provide that the competent authority in each country may permit extensions of the normal hours of work for categories of undertakings or establishments whose activity is subject to seasonal fluctuations ?

52. Do you consider that the competent authority should be required to determine by regulation the categories of undertakings or establishments whose activity is considered to be subject to seasonal fluctuations?

53. Do you consider that the competent authority in each country should be required to determine by regulation the limits up to which and the conditions under which the extensions referred to in questions 51 and 52 may be granted?

54. Do you consider that, before permitting the extensions referred to in questions 51 and 52 and before determining the limits and conditions applicable in such cases, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist?

#### AUSTRALIA

*Western Australia*

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

#### BELGIUM

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

#### CANADA

*Manitoba*

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

*Ontario*

51. Yes; it is desirable that the international regulations should provide that the competent authority may permit extensions of normal hours of work in case of seasonal fluctuations.

52. Yes; it is desirable that the international regulations should provide that the competent authority should determine by regulation

the categories of undertakings whose activities are subject to seasonal fluctuations.

53. Yes; it is desirable that the international regulation should provide that the competent authority should determine the limits of such extensions.

54. Yes; it is desirable that the international regulations should provide that the competent authority should in such case consult the organisations of employers and workers concerned, where such exist.

#### DENMARK

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

#### FRANCE

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

#### NEW ZEALAND

51. It is essential that special provision be made in respect of undertakings or establishments subject to seasonal fluctuations.

52 and 53. The particular undertakings and the method of application are best determined by the competent authority in each country. As this angle of the problem is envisaged by the New Zealand Government, it is probable that relief for seasonal undertakings may be desirable in a number of ways, e.g.

- (1) entire exemption or adoption of a limit higher than usual;
  - (2) provision of an averaging method;
  - (3) mere extensions.
54. The reply is in the affirmative.

#### SPAIN

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

**SWITZERLAND**

51 to 54. Yes. Some limits and conditions must be laid down, but they should be flexible. The same reply is given to question 54 as to question 11.

**UNION OF SOUTH AFRICA**

51. The reply is in the affirmative.
52. The reply is in the affirmative.
53. The reply is in the affirmative.
54. The reply is in the affirmative.

**UNITED STATES OF AMERICA**

51. Yes. The Fair Labor Standards Act of 1938 provides an exemption for a period of not more than 14 work-weeks in the aggregate in any calendar year in an industry found by the Administrator to be of a seasonal nature. Under this authority, the Administrator of the Act has ruled as follows:

"The exemption for an industry of a seasonal nature is applicable to an industry which both:

(a) Engages in the handling, extraction or processing of materials during a season or seasons occurring in a regularly, annually recurring part or parts of the year; and

(b) Ceases production, apart from work such as maintenance, repair, clerical and sales work, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed, in the form in which such materials are handled, extracted or processed, are not available in the remainder of the year."

52. See reply to question 51.
53. See reply to question 51. The legislation referred to provides that during the period of seasonal exemption there shall be overtime pay at a rate not less than time and a half for employment in excess of 12 hours in any work day, or for employment in excess of 56 hours in any work week.
54. The reply is in the affirmative.

**OVERTIME WITH INCREASED REMUNERATION**

55. Do you consider that the international regulations should permit the working of overtime with increased remuneration?

56. Do you consider that the annual maximum amount of overtime should be limited by the international regulations?

57. (a) Do you consider that the international regulations should limit the annual maximum amount of overtime:

- (i) to 100 hours, when the hours of work are fixed by national regulations as an average calculated over a period longer than one week ?
- (ii) to 200 hours, when the hours of work are fixed by national regulations on the basis of a period not exceeding one week ?
- (b) If the reply is in the negative, what other limits do you consider should be laid down in each of the above cases ?

58. Do you consider that the international regulations should provide that the amount of overtime authorised should be determined by regulations issued by the competent authority in each country ?

59. Do you consider that, before issuing regulations determining the amount of overtime, the competent authority in each country should be required to consult the organisations of employers and workers concerned, where such exist ?

#### AUSTRALIA

*Western Australia.*

55. The reply is in the affirmative.

56. The reply is in the affirmative.

57. (a) The reply is in the negative.

(b) Not more than 300 hours per annum.

58. The reply is in the affirmative.

59. The reply is in the affirmative.

#### BELGIUM

55. Yes, in the special cases for which provision is made.

56. The reply is in the affirmative.

57. (a) The reply is in the negative.

(b) The international regulations should limit the annual maximum amount of overtime to 100 hours when hours of work are fixed by national regulations on the basis of a period not exceeding one week.

58. The reply is in the affirmative.

59. The reply is in the affirmative.

#### CANADA

*Manitoba*

55. The reply is in the affirmative.

56. The reply is in the affirmative.
57. (a) The reply is in the affirmative.
58. The reply is in the affirmative.
59. The reply is in the affirmative.

### *Ontario*

55. Yes; the Government of Ontario considers it desirable that the international regulations should permit the working of overtime with increased remuneration.

56. Yes; the Government of Ontario considers it desirable that the international regulations should limit the annual maximum amount of overtime.

57. Yes; the Government of Ontario considers it desirable that the international regulations should limit the annual maximum amount of overtime to 100 hours when hours are calculated over a period longer than one week; and to 200 hours when a period not exceeding one week.

58. Yes; the Government of Ontario considers it desirable that the international regulations should provide that the amount of overtime should be determined by the competent authority, after consulting the employers' and workers' organisations, where such exist.

59. Yes; the Government of Ontario considers it desirable that the international regulations should provide that in such cases the competent authority should first consult the employers' and workers' organisations, where such exist.

### DENMARK

55. Yes. In accordance with the opinion given in its letter of 24 April 1933, the Danish Government considers that the number of hours of overtime should be limited. In view of the fact, however, that the reduction of hours of work may make it necessary to work overtime in exceptional cases, and that for this reason it may be inconvenient to have a fixed limit, it would be desirable to obtain the necessary limitation by prescribing that the indispensable overtime should be compensated—unless impossible owing to the special nature of the work (repair of machinery)—by the deduction of a corresponding number of hours from the normal working time, while, at the same time, all overtime that is not indispensable should be prohibited.

In accordance with the principle laid down in the Washington Convention concerning the 8-hour day, overtime should be paid for at increased rates.

In this connection, mention may be made of the Danish Act of 7 May 1937 concerning the prohibition of overtime. Under this Act overtime is tolerated in certain specified exceptional cases, which include the case of particularly busy seasonal periods. The authorisation to work overtime is, however, normally subject to the consent of the workers' organisation concerned (section 4 of the Act). No maximum limit is fixed for such necessary overtime, but it is strictly required (section 5 of the Act) that all overtime shall be compensated by the deduction of a corresponding number of hours from the normal working time. The Act contains no regulations concerning the remuneration for overtime, apart from a provision requiring that the general rules for overtime

contained in the collective agreement in question shall be observed, irrespective of the fact that the overtime is compensated later by a deduction from hours of work during normal working time (section 5, subsection 3 of the Act).

56. No. The Convention should not fix an absolute limit for the amount of overtime (see reply to question 55).

57. The reply is in the negative (see reply to question 55).

58. It should no doubt be left to national laws or regulations to fix the necessary limit of overtime (see reply to question 55).

59. The reply is in the affirmative.

#### FRANCE

55. The reply is in the affirmative.

56. The reply is in the affirmative.

57. (a) (i) Yes, when the normal general system in force in most industrial States is that of the 40-hour week.

Nevertheless, in cases where the industry or commerce is seasonal in character, the annual allowance might be 150 hours.

(ii) The question does not arise.

(b) The question does not arise.

58. The reply is in the affirmative.

59. The reply is in the affirmative.

#### NEW ZEALAND

55. Yes, with limitations as determined by the competent authority.

56. Overtime is already limited in New Zealand in respect of female workers and boys employed in factories, also overtime is actually prohibited in respect of retail shops except for stocktaking or special unforeseen circumstances. Regarding adult male workers, other than retail shop assistants, special overtime rates are prescribed, the rate increasing in accordance with the amount of overtime. For instance, one and a half times the ordinary rates are usually prescribed for the first three hours' overtime, and thereafter double rates. The effect is to limit the amount of overtime.

57. No comment, see reply to question 56.

58. The reply is in the affirmative.

59. The reply is in the affirmative.

#### SPAIN

55. The reply is in the affirmative.

56. The reply is in the affirmative.

57. (a) The reply is in the affirmative.

58. The reply is in the affirmative.  
 59. The reply is in the affirmative.

### SWITZERLAND

55 and 56. Provision must be made for overtime. Even during the business depression and unemployment, it was impossible to do without this measure and all that could be done was to restrict its application to some extent. Commercial practice and usage change; often the wholesaler or retailer shifts the risks of holding stocks on to the manufacturer; moreover, fashion is becoming more and more important, so that it is difficult to produce for stock. Accordingly, overtime will always be necessary. It would, therefore, be well to fix a yearly quota or to leave it to the national authority (see question 58) to fix the quota or quotas.

57. (a) and (b) There seems no substantial reason for fixing different quotas according as hours of work are calculated as an average over a period longer than one week or fixed on the basis of a period not exceeding a week. At any rate, there is no reason for doing so to the extent suggested here. The consequence might be that some undertakings had an advantage over others in the same branch. A 200-hour quota and, *a fortiori*, a 100-hour quota would hardly suffice if hours of work were fixed at 40 in the week. It must be remembered that if the 200 hours' overtime allowance were fully used, the number of hours worked would increase to about 44 in the week. It might be advisable to fix the overtime quota in proportion to the normal weekly hours of work. In Switzerland, where the Factory Act fixes hours of work at 48 in the week, it is possible to allow an overtime quota of 160 hours, not including those worked on Saturday (permission for overtime is, it is true, difficult to obtain on that day); this allowance has proved far from excessive. By no means every establishment, however, makes full use of the quota.

58. See the reply to question 56.  
 59. Yes, the same remarks apply as in the case of question 11.

### UNION OF SOUTH AFRICA

55. The reply is in the affirmative.  
 56. The reply is in the affirmative.  
 57. No; the competent authority should de  
 58. The reply is in the affirmative.  
 59. The reply is in the affirmative.

### UNITED STATES OF AMERICA

55. Yes. It is highly important to provide in such regulations for adequate elasticity to meet the varied problems of industry. This can

best be done by granting permission freely to permit longer hours with increased remuneration as a safeguard against abuse.

56. The reply is in the negative.
57. See replies to questions 56 and 58.

58. Yes. The United States Government considers this question as an alternative to question 56. The effectiveness of an overtime provision depends upon the penalty rate which is established. American legislation specifies time-and-a-half as the minimum overtime rate. With such a provision no specific limitation on the amount of overtime is necessary or desirable.

59. The reply is in the affirmative.

### OVERTIME RATES

60. Do you consider that the international regulations should determine:

- (a) a single minimum rate of increase of pay for overtime ?

or

- (b) different minimum rates varying according to the occasions on which or the circumstances in which overtime is worked ?

61. (a) If the reply to question 60 (a) is in the affirmative, what single minimum rate of increase of pay for overtime do you consider should be laid down in the international regulations ?

(b) If the reply to question 60 (b) is in the affirmative, what minimum rates of increase of pay for overtime do you consider should be laid down in the international regulations on each of the occasions or in each of the circumstances indicated by you, namely:

- (i) time-and-a-quarter ?
- (ii) time-and-a-half ?
- (iii) double time ?

or

- (iv) some other rate ?

### AUSTRALIA

*Western Australia*

60. (a) The reply is in the negative.
- (b) The reply is in the affirmative.

61. (a) The question does not arise.  
 (b) (i) Saturday afternoons in continuous process work.  
 (ii) Sundays continuous process work and for first 4 hours of ordinary overtime.  
 (iii) After first four hours' ordinary overtime and for Sunday and public holidays other than continuous process work.

### BELGIUM

60. (a) The reply is in the affirmative.  
 (b) The reply is in the negative.  
 61. (a) Time-and-a-quarter.  
 (b) The question does not arise.

### CANADA

#### *Manitoba*

60. (a) The reply is in the negative.  
 (b) The reply is in the affirmative.  
 61. (a) The question does not arise.  
 (b) (i) and (ii) The reply is in the affirmative.  
 (iii) Yes, Sundays and holidays.

#### *Ontario*

60. The Government of Ontario considers it desirable that the international regulations should determine a single minimum rate of increase of payment for overtime.  
 61. Time-and-a-half is desirable.

### DENMARK

- 60 and 61. As mentioned in the reply to question 55, the Danish Act of 7 May 1937 does not impose increased rates of pay for overtime. If the international regulations are to fix a minimum rate of increase of pay for overtime, only a single minimum rate should be fixed, and it should be prescribed that the rate should in no case be less than one and a quarter times the regular rate (see Article 6 of the Washington Convention).

### FRANCE

60. (a) The reply is in the affirmative.  
 (b) The reply is in the negative.  
 61. (a) 25 per cent., if the normal general system in force in most industrial States is that of the 40-hour week.  
 (b) The question does not arise.

## NEW ZEALAND

60. It is considered that the overtime rate should increase in proportion to amount of overtime worked.
61. See reply to question 56.

## SPAIN

60. The Government considers it preferable to fix different minimum rates.
61. Time-and-a-half when the overtime is worked during the day and double time for overtime at night.

## SWITZERLAND

- 60 and 61. In Switzerland, under the Factory Act, overtime is payable at not less than time and a quarter. This provision should be sufficient; other rates should be left to agreements or national laws and regulations.

## UNION OF SOUTH AFRICA

60. This is a matter which should be left to the competent authority.
61. This is a matter which should be left to the competent authority.

## UNITED STATES OF AMERICA

60. An adequate single minimum rate of overtime pay is desirable.
61. (a) Time-and-a-half. See reply to question 58.

## GRADUAL APPLICATION OF THE REGULATIONS

62. Do you accept the principle of reducing hours by stages ?
63. (a) Do you consider that the maximum length of the transitional period should be three years ?  
(b) If the reply is in the negative, what other period do you propose ?
64. Do you consider that the start of the transitional period should coincide :  
(i) with the date of the coming into force of the Convention itself ?

or

- (ii) with the date of the coming into force of the Convention with respect to each country ?

65. (a) Do you consider that the general limit of normal hours of work during the transitional period should be fixed at 44 hours ?

(b) If the reply is in the negative, what other limit do you propose ?

66. Do you consider that the international regulations should provide that the competent authority in each country may authorise during the transitional period special limits of normal hours of work for the categories of undertakings or of occupations referred to in questions 29 to 38 in excess of the limits suggested in questions 31 to 36 ?

67. Do you consider that before determining the limits referred to in question 66 the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

#### AUSTRALIA

##### *Western Australia*

62. It might be advisable.
63. (a) The reply is in the affirmative.  
(b) The question does not arise.
64. The reply is in the affirmative to paragraph (ii).
65. (a) Yes, but exceptions must be provided for.  
(b) The question does not arise.
66. The reply is in the affirmative.
67. The reply is in the affirmative.

#### BELGIUM

62. The reply is in the affirmative.
63. (a) The reply is in the affirmative.  
(b) The question does not arise.
64. (i) The reply is in the negative.  
(ii) The reply is in the affirmative.
65. (a) The reply is in the affirmative.  
(b) The question does not arise.
66. The reply is in the affirmative.
67. The reply is in the affirmative.

## CANADA

*Manitoba*

62. The reply is in the affirmative.
63. (a) The reply is in the negative.  
(b) One year.
64. (i) The reply is in the negative.  
(ii) The reply is in the affirmative.
65. (a) The reply is in the negative.  
(b) 48 hours.
66. The reply is in the affirmative.
67. The reply is in the affirmative.

*Ontario*

62. Yes; the Government of Ontario approves the principle of reducing hours by stages.
63. The maximum length of the transitional period should be three years.
64. The start of the transitional period should coincide with the date of ratification by each country.
65. The general limit of normal hours of work during the transitional period should be fixed at 44.
66. Yes; the Government of Ontario considers it desirable that the competent authority might authorise during the transitional period special limits of normal hours of work for the categories of undertakings referred to in questions 29 to 38 in excess of the limits suggested in questions 31 to 36.
67. The competent authority should be required to consult the organisations of employers and workers concerned, where such exist.

## DENMARK

62. The reply is in the affirmative.
63. The reply is in the affirmative.
64. The start of the transitional period should coincide with the date of the coming into force of the Convention itself.
65. The reply is in the affirmative.
66. The reply is in the affirmative.
67. The reply is in the affirmative.

## FRANCE

62. The French Government is in favour of the immediate generalisation of the reduction of hours of work. It is willing, however, to support

any measure likely to obtain the necessary majority for the adoption of a Draft Convention.

63. (a) The reply is in the affirmative.  
(b) The question does not arise.
64. (i) The reply is in the negative.  
(ii) The reply is in the affirmative.
65. (a) The reply is in the affirmative.  
(b) The question does not arise.
66. Yes, in so far as these extensions do not exceed the limits already fixed by the Conventions in force.
67. The reply is in the affirmative.

#### NEW ZEALAND

62. In order that any Convention may be ratified by the maximum number of competent authorities, the principle is agreed to.

63. It is reasonable to aim for reduction in as short a period as possible. A period of three years may, however, be too short in many countries. Therefore it is suggested that the period be left to the competent authority in each country to determine with, however, a recommendation that a specified period be not exceeded unless impracticable.

64. No comment.
65. The limit adopted should be the lowest possible having regard to present working hours. 44 is, however, a desirable limit from the New Zealand Government's point of view, although it is realised that general adoption of this limit cannot be expected.
66. See replies to questions 29 to 38.
67. The reply is in the affirmative.

#### SPAIN

62. The reply is in the negative.
63. If the agreed reply to the previous question is in the affirmative, the Government proposes a period of two years.
64. The starting point should coincide with the date of the coming into force of the Convention with respect to each ratifying country.
65. The reply is in the affirmative.
66. The reply is in the negative, since special limitations are already authorised.
67. In view of the reply to the previous question, this question does not arise.

## SWITZERLAND

62 and 63. The idea of allowing gradual reduction should be approved. A transitional period of six years, instead of three, would not be excessive.

64. The only practical scheme would be for the transitional period to run from the date of ratification of the Convention by each country.

65. (a) and (b) A 44-hour week could hardly be fixed as a general limit for normal hours of work during the transitional period. The most natural method would be to provide for reduction by yearly stages down to a limit of 44 hours in the week.

66. Yes, if weekly hours of work are limited.

67. The same reply is given as to question 11.

## UNION OF SOUTH AFRICA

62. Yes; any reduction of hours should be effected gradually.

63. (a) Yes, with power to grant exemptions.

64. It should coincide with the date the Convention comes into force in each country. Any other provision will tend to prevent ratification. As time passes, the possibility of gradual application vanishes.

65. As the principle of a 40-hour week is not accepted, it is impossible to support any specified figure. A competent authority should be permitted to reduce over the three years by one third of the difference between the number of hours which is fixed by the Convention and those prevailing in the particular country.

66. The reply is in the affirmative.

67. The reply is in the affirmative.

## UNITED STATES OF AMERICA

62. The reply is in the affirmative.

63. (a) The reply is in the affirmative.

64. With the date of the coming into force of the Convention with respect to each country.

65. (a) The reply is in the affirmative.

66. See reply to question 5.

67. See reply to question 5.

## SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

### TERRITORIAL EXEMPTIONS

68. Do you consider that the international regulations should include provisions exempting from their application, in the case of certain countries, the areas in respect of which, by reason of the sparseness of their population or the stage of their economic development, it is impracticable to create the administrative organisation necessary to secure effective enforcement of the proposed regulations ?

69. Are there any areas in your country in which you consider that the international regulations should not, in accordance with question 68, apply ?

#### AUSTRALIA

##### *Western Australia*

68. The reply is in the negative.

69. The reply is in the negative.

#### BELGIUM

68. The reply is in the negative.

69. The reply is in the negative.

#### CANADA

##### *Manitoba*

68. The reply is in the affirmative.

69. The reply is in the affirmative.

##### *Ontario*

68 and 69. The questions relating to special provisions for certain countries do not directly concern the Province of Ontario; consequently answers are not being submitted in detail. The Government of Ontario, however, approves of such special regulations being made, in accordance with Article 19, paragraph 3, of the Constitution of the International Labour Organisation.

#### DENMARK

68. The reply is in the affirmative.

69. It is not possible to decide in advance that areas where the international regulations should not be applied, as indicated in question 68, cannot exist in Denmark.

#### FRANCE

68. Yes, if it appears that the adoption of this measure would be likely to lead to the voting of the Draft Convention.

69. The reply is in the negative.

#### NEW ZEALAND

68. The reply is in the affirmative.

69. The reply is in the negative.

#### SPAIN

68. The reply is in the negative. The Government considers that the general aim should be to avoid special regulations. Nevertheless, if by this means the adoption of the Convention can be facilitated, it would agree to the possibility in question, provided that it is applied not to the whole territory of a country, but only to specified regions.

69. The reply is in the affirmative, subject to the objection on the point of principle previously indicated.

#### SWITZERLAND

68 and 69. This chapter does not affect Switzerland. The Government therefore abstains from replying.

#### UNION OF SOUTH AFRICA

68. Yes; without such provision the Union Government could not contemplate ratification.

69. Yes; without such provision the Union Government could not contemplate ratification.

#### UNITED STATES OF AMERICA

68. A total exemption from a weekly hours maximum should be permitted only for areas within a ratifying country which are found to present administrative difficulties by reason of the sparseness of population. The Convention should require a finding to this effect by the national competent authority.

69. The reply is in the negative.

**EXEMPTION OF SMALL UNDERTAKINGS AND ESTABLISHMENTS**

70. Do you consider that the international regulations should include provisions permitting certain countries to exempt from the international regulations, in respect either of the whole or of specified parts of their territory, undertakings or establishments employing a number of workers not exceeding the figure of 20 or such lower figure as may be specified in the relevant national regulations in force at the time of the adoption of the international regulations ?

71. (a) Do you consider that the international regulations should contain a provision on the lines suggested in question 70 in respect of your country ?

(b) If the reply is in the affirmative, do you consider that these provisions should apply to the whole of the territory of your country or only to certain specified parts thereof, and, if so, which parts ?

**AUSTRALIA***Western Australia*

70. The reply is in the negative.

71. (a) The reply is in the negative.

(b) The question does not arise.

**BELGIUM**

70. The reply is in the negative.

71. (a) The reply is in the negative.

(b) The question does not arise.

**CANADA***Manitoba*

70. The reply is in the affirmative.

71. (a) The reply is in the affirmative.

(b) To certain parts to be determined by location and population.

*Ontario*

70 and 71. The questions relating to special provisions for certain countries do not directly concern the Province of Ontario; consequently answers are not being submitted in detail. The Government of Ontario, however, approves of such special regulations being made, in accordance with Article 19, paragraph 3, of the Constitution of the International Labour Organisation.

## DENMARK

70 and 71. See reply to question 69.

## FRANCE

70. Yes, if it appears that the adoption of this measure would be likely to lead to the voting of the Draft Convention.

71. (a) The reply is in the negative.

(b) The question does not arise.

## NEW ZEALAND

70. In the absence of further information, the Government is hardly in a position to reply. Generally, the principle of reduced working hours should apply (with the qualifications already mentioned) to all specified undertakings in any country.

71. The reply is in the negative.

## SPAIN

70. Yes, but for undertakings employing a number of workers not exceeding ten.

71. (a) The reply is in the affirmative.

(b) Only to certain regions.

## SWITZERLAND

70 and 71. This chapter does not affect Switzerland. The Government therefore abstains from replying.

## UNION OF SOUTH AFRICA

70. The reply is in the affirmative.

71. (a) The reply is in the affirmative.

(b) The whole.

## UNITED STATES OF AMERICA

70. Yes. It is necessary to add some standard to determine the applicability of this question to certain countries or areas. It is suggested that such a permissible exemption should apply in areas or countries in which, by reason of the sparseness of their population or the stage

of their economic development, it is impracticable to create the administrative organisation necessary to enforce the proposed regulations upon all undertakings.

71. (a) The reply is in the negative.

#### LONGER LIMITS OF NORMAL HOURS IN CERTAIN CASES

72. In the case of countries or parts thereof referred to in question 68, do you consider that the international regulations should contain a provision permitting the competent authority to authorise normal hours of work in excess of those suggested in questions 20 and 24 in the case of all undertakings or establishments, or only in the case of certain classes of undertakings or establishments, in the country as a whole or in any specified parts thereof ?

73. (a) (i) Do you consider that the international regulations should contain a provision on the lines suggested in question 72, whereby the general limits of normal weekly hours of work corresponding to those suggested in questions 20 and 24 should be fixed in respect of your country or specified parts thereof, at 48 for example ?

(ii) If the reply is in the negative, what other limit or limits do you propose ?

(b) If the reply to (a) above is in the affirmative, do you consider that these provisions should apply to the whole of the territory of your country or only to certain specified parts thereof, and if so, which parts ?

(c) If the reply to (a) above is in the affirmative, do you consider that these provisions should apply to all the categories of undertakings or establishments or only to certain categories thereof, and if so, which categories ?

74. Do you consider that the international regulations should contain a provision permitting the competent authority to authorise special limits of normal weekly hours of work in excess of those suggested in questions 31 to 36 in the case of countries or specified parts thereof contemplated in question 68 ?

75. If the reply to question 74 is in the affirmative, do you consider that the special limits of normal weekly hours of work applicable in such cases should be determined by regulations issued by the competent authority in each country concerned ?

76. Do you consider that before issuing regulations determining the special limits of normal weekly hours of work referred to in question 74, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist ?

77. (a) Do you consider that the international regulations should contain a provision on the lines suggested by questions 74 to 76 in respect of your country or any specified part thereof?

(b) If the reply to (a) above is in the affirmative, do you consider that these provisions should apply to the whole of the territory of your country or only to certain specified parts thereof, and if so, which parts?

(c) If the reply to (a) above is in the affirmative, do you consider that these provisions should apply to all the categories of undertakings or establishments referred to in questions 31 to 36, or only to certain categories thereof, and if so, which categories?

#### AUSTRALIA

##### *Western Australia*

72. Yes, in the case of genuine difficulty.

73. (a) (i) Up to 48 hours.  
 (ii) The question does not arise.  
 (b) The whole territory.  
 (c) The whole.

74. The reply is in the negative.

75. The question does not arise.

76. The question does not arise.

77. (a) The reply is in the negative.  
 (b) The question does not arise.  
 (c) The question does not arise.

#### BELGIUM

72. The question does not arise.

73. The question does not arise.

74. The question does not arise.

75. The question does not arise.

76. The question does not arise.

77. (a) The reply is in the negative.  
 (b) and (c) The questions do not arise.

#### CANADA

##### *Manitoba*

72. The reply is in the affirmative.

73. (a) (i) The reply is in the affirmative.  
(b) (No reply is given).  
(c) Yes, to all categories of undertakings or establishments.
74. The reply is in the affirmative.
75. The reply is in the affirmative.
76. The reply is in the affirmative.
77. (a) The reply is in the affirmative.  
(b) To certain parts to be determined by location and population.  
(c) Yes, to all categories referred to in questions 31 to 36.

*Ontario*

72 to 77. The questions relating to special provisions for certain countries do not directly concern the Province of Ontario; consequently answers are not being submitted in detail. The Government of Ontario, however, approves of such special regulations being made, in accordance with Article 19, paragraph 3, of the Constitution of the International Labour Organisation.

## DENMARK

72 to 77. See reply to question 69.

## FRANCE

72. Yes, if it appears that the adoption of this measure would be likely to lead to the voting of the Draft Convention.

73. (a) (i) The reply is in the negative.  
(ii) The proposed regulations should apply to the whole of the territory.  
(b) The question does not arise.  
(c) The question does not arise.

74. Yes, if it appears that the adoption of this measure would be likely to lead to the voting of the Draft Convention.

75. Yes, within limits to be determined by the international regulations.

76. The reply is in the affirmative.
77. (a) The reply is in the negative.  
(b) The question does not arise.  
(c) The question does not arise.

## NEW ZEALAND

72. The question as to the scope of any exemption should be left to the competent authority.

73. The reply is in the negative.

- 74. No comment.
- 75. No comment.
- 76. No comment.
- 77. The reply is in the negative.

#### SPAIN

- 72. Yes, but without exceeding the 48-hour week.
- 73. Yes, but only for certain regions.
- 74. Yes, but not in excess of 48 hours.
- 75. The reply is in the affirmative.
- 76. The reply is in the affirmative.
- 77. Yes, but only for certain regions and for all the establishments mentioned in the replies to questions 31 to 36.

#### SWITZERLAND

72 to 77. This chapter does not affect Switzerland. The Government therefore abstains from replying.

#### UNION OF SOUTH AFRICA

- 72. Total exemption should be permitted; in other words, the Convention would not apply.
- 73. Total exemption should be permitted; in other words, the Convention would not apply.
- 74. The reply is in the affirmative.
- 75. The reply is in the affirmative.
- 76. The reply is in the affirmative.
- 77. The whole of the territory. In effect the competent authority should be free to apply the Convention where possible.

#### UNITED STATES OF AMERICA

- 72. In the case of countries and of parts thereof where the economic processes are less developed than in other sections of the world, permission should be given the competent authority to authorise normal hours of work in excess of those suggested in questions 20 and 24 but with a maximum of 48 hours per week.

73. (a) (i) This does not apply to the United States.
74. See reply to question 5.
75. See reply to question 5.
76. See reply to question 5.
77. See reply to question 5.

## SPECIAL PROVISIONS FOR UNDERGROUND MINES OTHER THAN COAL MINES

78. Do you consider that the international regulations should include a definition of hours of work for workers employed underground in mines other than coal mines, based on the following definition of time spent in the mine:

- "(a) time spent in an underground mine for each worker employed in underground mines other than coal mines shall mean the period between the time when the worker enters the cage in order to descend and the time when he leaves the cage after reascending;
- "(b) in mines where access is by an adit, the time spent in the mine shall mean the period between the time when the worker passes through the entrance of the adit and the time of his return to the surface" ?

79. Do you consider that the international regulations should stipulate that the provision suggested in question 78 shall be deemed to be complied with if the period between the time when the first workers of the shift or of any group leave the surface and the time when they return to the surface is the same as the time spent in the mine by each worker, provided that the order of and the time required for the descent and the ascent of the shift or of any group of workers shall be approximately the same ?

80. Do you consider that the daily and weekly time spent in the mine by any worker should be limited to:

- (a)  $7\frac{3}{4}$  hours per day and  $38\frac{3}{4}$  hours per week ?

or

- (b) 8 hours per day and 40 hours per week ?

or

- (c)  $38\frac{3}{4}$  hours per week as an average calculated over a fixed period consisting of a certain number of weeks of six days and a certain

number of weeks of five days, the daily time not to exceed  $7\frac{3}{4}$  hours ?

or

(d) 40 hours per week on the average calculated over a fixed period consisting of a certain number of weeks of six days and a certain number of weeks of five days, the daily time not to exceed 8 hours ?

or

(e)  $7\frac{1}{2}$  hours per day and 45 hours per week ?

or

(f) other limits ?

81. If you consider that the limits suggested in clauses (c) or (d) of question 80 should apply, over what period do you consider the time spent in the mine should be calculated ?

82. Do you consider that, during the transitional period suggested in question 63, the competent authority in each country should be empowered to establish for workers underground in all the mines other than coal mines of any country, or in certain classes of mines, or in certain mining districts, one of the following schemes :

(a) 44 hours a week, worked :

(i) by means of 11 shifts in the fortnight (6 shifts in one week and 5 in the next week) of 8 hours ?

or

(ii) by means of 6 shifts of 7 hours and 20 minutes in the week ?

(b) 42 hours 37 minutes a week worked :

(i) by means of 11 shifts in the fortnight (6 shifts in one week and 5 in the next week) of 7 hours and 45 minutes ?

or

(ii) by means of 6 shifts of 7 hours and 6 minutes in the week ?

) 42 hours a week, worked :

(i) by means of 11 shifts in the fortnight (6 shifts in one week and 5 in the next week) of 7 hours and 38 minutes ?

or

(ii) by means of 6 shifts of 7 hours in the week ?

(d) other schemes providing :

(i) for the even distribution of weekly hours of work over all the working days in the week ?

or

(ii) the elimination of working days ?

or

(iii) a combination of the two schemes suggested under (i) and (ii) ?  
In this case what scheme do you propose ?

83. Do you consider that the determination of the classes of mines or mining districts in respect of which one or other of the transitional schemes referred to in question 82 and the choice of the scheme to be applied should be left to the competent authority ?

84. Do you consider that the length of the shift of each worker employed on operations which must be carried on continuously may be extended to 8 hours per day, exclusive of the time spent in the mine by that worker in reaching and returning from his place of work, it being understood that in each case this time will be reduced to the indispensable minimum ?

85. Do you consider that the number of hours of overtime which may be worked in mines other than coal mines should be limited:

(a) under the same conditions as for coal mines (other than lignite mines) ?

or

(b) without distinguishing mines other than coal mines from other undertakings covered by the general regulations ?

#### AUSTRALIA

##### *Western Australia*

78. The reply is in the affirmative.
79. The reply is in the affirmative.
80. 7 hours 12 minutes per shift Monday to Friday inclusive — 4 hours on Saturday.
81. The question does not arise.
82. The reply favours the scheme proposed under (a) (ii).

- 83. The reply is in the affirmative.
- 84. The reply is in the affirmative.
- 85. The reply is in the affirmative to paragraph (a).

### BELGIUM

- 78. The reply is in the affirmative.
- 79. The reply is in the affirmative.
- 80. (a) The reply is in the negative.  
 (b) The reply is in the negative.  
 (c) The reply is in the negative.  
 (d) 40 hours per week on the average, calculated over a fixed period consisting of a certain number of weeks of six days and a certain number of weeks of less than six days, the daily time not to exceed eight hours.  
 (e) The reply is in the negative.  
 (f) The reply is in the negative.
- 81. The period over which the average time spent in the mine should be calculated should be determined by the competent authority after consultation with the organisations of employers and workers concerned, where such exist.
- 82. (a) The reply is in the negative.  
 (b) The reply is in the negative.  
 (c) The reply is in the negative.  
 (d) 42 hours on the average, the details being fixed by the competent authority after consultation with the employers' and workers' organisations concerned.
- 83. See reply to question 82 (d).
- 84. The reply is in the affirmative.
- 85. (a) The reply is in the affirmative.  
 (b) The reply is in the negative.

### CANADA

#### *Manitoba*

- 78. The reply is in the affirmative.
- 79. The reply is in the affirmative.
- 80. The reply favours the suggestion contained in paragraph (d).
- 81. One year (52 weeks).
- 82. The reply expresses preference for the scheme suggested in paragraph (a) (i).
- 83. The reply is in the affirmative.
- 84. The reply is in the affirmative.

85. (a) The reply is in the negative.  
(b) The reply is in the affirmative.

### Ontario

78 and 79. Yes; the definition of hours of work is approved, as well as the proposal in connection therewith contained in question 79.

80. Yes; the daily and weekly time spent in the mine by any worker should be limited to  $7\frac{3}{4}$  hours per day and  $38\frac{3}{4}$  per week.

81. The question does not arise.

82. Yes; the competent authority should be empowered to establish for workers underground during the transitional period one of the schemes outlined.

83. Yes; the choice of scheme to be applied, as well as the classes of mines, should be determined by the competent authority.

84. Yes; in continuous operations the shift might be extended to 8 hours.

85. Yes; the number of hours' overtime should be limited for mines other than coal mines in the same manner as other undertakings covered by the general regulations.

### DENMARK

78 to 85. The Government lacks sufficient experience to be able to give an opinion on these questions.

### FRANCE

78. Yes, on condition that the undertakings to be included in the term "underground mines" are clearly defined. The French regulations concerning underground mines do not apply to a certain number of underground undertakings, including those for the extraction of bauxite, slate, gypsum, etc.

79. The reply is in the affirmative.

80. The daily and weekly time spent in the mine should be fixed at  $7\frac{3}{4}$  hours per day and  $38\frac{3}{4}$  hours per week, account being taken of the possibilities provided for in question 82 below concerning the transitional period.

81. The question does not arise.

82. A transitional period should be contemplated, but it does not appear possible to fix it uniformly for all the mines concerned. The mines should be divided into categories, and a preliminary problem to be solved is therefore the determination of these categories according to the nature of the substance extracted or the conditions of working. For mines where the conditions of work are similar to those of French mines, it might be possible to consider a weekly limit of 42 hours 37 minutes (11 shifts in the fortnight of 7 hours 45 minutes).

83. The reply is in the negative.
84. Yes (in the conditions provided under the revised Convention of 1935).

85. (a) No, in principle.

(b) The reply is in the negative.

The above replies must be interpreted as leading to a special system of overtime provisions for the mines under consideration, which would not necessarily be either the system applicable to coal mines, or that applicable to the other undertakings covered by the general regulations on hours of work.

#### SPAIN

78. The reply is in the affirmative.
79. The reply is in the affirmative.
80. The weekly time spent in the mine by any worker should be fixed at an average of 38  $\frac{3}{4}$  hours calculated over a period of six weeks of six days and five days.
81. Six weeks.
82. The Government prefers the system of 42 hours a week worked by means of 11 shifts in the fortnight, of 7 hours and 38 minutes each (six shifts in one week and five in the next week).
83. The reply is in the affirmative.
84. The reply is in the affirmative.
85. Under the same conditions as for coal mines.

#### SWITZERLAND

78 to 85. Mines are not important in Switzerland for the time being. The Government is, however, in favour of the principle of these regulations, but does not go into details.

#### UNION OF SOUTH AFRICA

78 to 85. In view of the negative reply to question 3 (c) above, these questions do not arise.

#### UNITED STATES OF AMERICA

78. The definition of time spent in mine should be left to the competent authority after consultation with the organisations of workers and employers.

79. See reply to question 78.

80. The reply is in the affirmative to paragraph (b).
81. The question does not arise.
82. The method of applying transitional regulations should be left to the competent authority after consultation with the workers' and employers' representatives.
83. The reply is in the affirmative.
84. The reply is in the affirmative.
85. The reply is in the affirmative to paragraph (b).

### SUSPENSION OF THE APPLICATION OF THE REGULATIONS

86. Do you consider that the international regulations should provide that any Member of the International Labour Organisation may suspend the operation of the provisions of the international regulations in its country in certain cases ?

87. If the reply to question 86 is in the affirmative, do you consider that the international regulations should authorise the suspension of the operation of their provisions in all or any of the following cases:

- (a) in case of necessity, for meeting the requirements of national safety ?
- (b) in case of necessity, for ensuring the working of the service of a public utility ?
- (c) in case of necessity, for protecting the national economic system ?

88. Do you consider that any Member of the International Labour Organisation which has recourse to the measures of suspension referred to in questions 86 and 87 should be required to notify the International Labour Office immediately of the suspension of the regulations, with an indication of the reasons which have led to it ?

#### AUSTRALIA

*Western Australia*

86. The reply is in the affirmative.
87. (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.  
(c) (No reply is given.)
88. The reply is in the affirmative.

#### BELGIUM

86. The reply is in the affirmative.

87. (a) The reply is in the affirmative.  
 (b) The vague drafting of the question does not enable a simply affirmative or negative reply to be given.  
 (c) No, unless grave circumstances endanger the national economic system.

88. The reply is in the affirmative.

#### CANADA

##### *Manitoba*

86. The reply is in the affirmative.  
 87. The reply is in the affirmative.  
 88. The reply is in the affirmative.

##### *Ontario*

86. The reply is in the affirmative.  
 87. Yes; it is considered desirable that operation of the international regulations might be suspended:  
 (a) in cases of necessity, for meeting the requirements of national safety;  
 (b) for ensuring the working of the service of a public utility;  
 (c) for protecting the national economic system.  
 88. Yes; it is considered desirable that in such cases the Member of the International Labour Organisation should notify the International Labour Office of such suspension.

#### DENMARK

86. The reply is in the affirmative.  
 87. The reply is in the affirmative.  
 88. The reply is in the affirmative.

#### FRANCE

86. The reply is in the affirmative.  
 87. (a) The reply is in the affirmative.  
 (b) The reply is in the affirmative.  
 (c) Yes, but the Government could not support this formula unless it is made quite clear.  
 88. The reply is in the affirmative.

#### SPAIN

86. The reply is in the affirmative.

87. The reply is in the affirmative with regard to the three paragraphs.
88. The reply is in the affirmative.

#### SWITZERLAND

86. The reply is in the affirmative.
87. The reply is in the affirmative.
88. The reply is in the affirmative.

#### UNION OF SOUTH AFRICA

86. The reply is in the affirmative.
87. In all cases.
88. The reply is in the affirmative.

#### UNITED STATES OF AMERICA

86. The reply is in the affirmative.
87. (a) The reply is in the affirmative.  
(b) The reply is in the negative.  
(c) No permission in these terms is necessary. However, if the Convention contains the section contemplated in (a) above there should be a provision added that the suspension of its operation by one ratifying nation may be considered by each other ratifying nation in relation to the requirements of its own national safety and national economic system.
88. The reply is in the affirmative.

#### SAFEGUARDING CLAUSE

89. Do you consider that the international regulations should include an article providing that, in accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in the international regulations shall affect any law, award, custom, or agreement between employers and workers which ensures more favourable conditions for the workers than those provided for in such regulations ?

#### AUSTRALIA

*Western Australia*

89. The reply is in the affirmative.

## BELGIUM

89. The reply is in the affirmative.

## CANADA

*Manitoba*

89. The reply is in the affirmative.

*Ontario*

89. Yes; the Government of Ontario considers it advisable that the international regulations should include a clause to the effect that nothing in the regulations shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions for the workers than those contained in the regulations.

## DENMARK

89. The reply is in the affirmative.

## FRANCE

89. Yes, under the conditions laid down in Article 19, paragraph 11, of the Constitution of the International Labour Organisation, which provides that in no case shall any Member be asked or required, as a result of the adoption of any Recommendation or Draft Convention by the Conference, to lessen the protection afforded by its existing legislation to the workers concerned.

## SPAIN

89. The reply is in the affirmative.

## SWITZERLAND

89. The Government approves of the principle, but cases might arise in which the national legislature might see fit to deal with matters hitherto settled exclusively by agreement between employers and workers. In such cases the public interest would take precedence over private interests and the international safeguarding clause could not apply. It goes without saying, however, that the national legislature would not unnecessarily worsen an existing situation.

## UNION OF SOUTH AFRICA

89. The reply is in the affirmative.

## UNITED STATES OF AMERICA

89. The reply is in the affirmative.

## SUPERVISION OF THE APPLICATION

90. Do you consider that the international regulations should provide that the employer should be required to notify, in a manner approved by the competent authority, by the posting of notices or otherwise:

- (a) the hours at which work begins and ends ?
- (b) where work is carried on by shifts, the hours at which each shift begins and ends ?
- (c) where a rotation system is applied, a description of the system, including a time-table for each person or group of persons ?
- (d) the arrangements made in cases where the average duration of the working week is calculated over a period exceeding one week ?
- (e) the arrangements made in cases where lost time is made up ?  
and
- (f) rest periods which are not reckoned as part of the working hours ?

91. Do you consider that the international regulations should provide that the employer should be required to keep a record in the form prescribed by the competent authority, in which there shall be included all additional hours worked (questions 48 to 61), and of the payments made in respect thereof ?

## AUSTRALIA

*Western Australia*

90. The reply is in the affirmative.

91. The reply is in the affirmative.

## BELGIUM

90. The reply is in the affirmative.

91. The reply is in the affirmative.

## CANADA

*Manitoba*

90. The reply is in the affirmative.
91. The reply is in the affirmative.

*Ontario*

90. Yes; the international regulations should provide that the employer be required to notify, in a manner approved by the competent authority, by the posting of notices or otherwise, on all items outlined in (a) to (f).

91. Yes; the employer should be required to keep a record in a form approved by the competent authority, in which shall be included all additional hours worked and the payments made in connection therewith.

## DENMARK

90. The reply is in the affirmative.
91. The reply is in the affirmative.

## FRANCE

90. The French Government proposes the following measures in addition to those enumerated above, which it supports in full:

Where work is organised in successive shifts, the head of the undertaking should notify, by the posting of notices or in any other manner approved by the competent authority, a list of the workers employed in each shift.

Where recourse is had to overtime for which a notification or permit is required, a copy of the notice or permit should be posted in the premises where the overtime is worked.

91. The reply is in the affirmative.

## SPAIN

90. The reply is in the affirmative.
91. The reply is in the affirmative.

## SWITZERLAND

90 and 91. Yes; it may be noted that there is in the Swiss Factory Act a provision requiring the head of an undertaking to notify the supervisory authority when he is obliged by force of circumstance to depart from the rules limiting hours of work.

## UNION OF SOUTH AFRICA

90. (a), (b) and (d) The reply is in the affirmative.  
(c), (e) and (f) The reply is in the negative.

91. The reply is in the affirmative.

## UNITED STATES OF AMERICA

90. (a) The reply is in the affirmative.  
(b) The reply is in the affirmative.  
(c) The reply is in the affirmative.  
(d) The reply is in the affirmative.  
(e) See reply to question 39.  
(f) The reply is in the affirmative.

91. The reply is in the affirmative.

## ANNUAL REPORTS

92. Do you consider that the international regulations should contain an indication of the information which should be given in the annual reports presented in execution of Article 22 of the Constitution of the International Labour Organisation on the measures taken for the control of the application of the international regulations ?

93. If the reply to question 92 is in the affirmative, do you consider that the reports in question should include, more particularly, information concerning :

- (a) exemptions provided in the scope of the regulations and the conditions under which these exemptions are granted ?
- (b) regulations covering the cases in which average hours of work are calculated over a period exceeding one week ?
- (c) the determination of necessarily continuous processes for which a 42-hour week is authorised ?
- (d) the determinations by the competent authority concerning the special limits of normal hours of work (questions 29 to 38) ?
- (e) measures taken by the competent authority concerning the conditions under which the making up of lost time is permitted ?
- (f) regulations covering the extension of hours of work (questions 43 to 54) ?

- (g) regulations covering overtime (questions 55 to 61) ?
- (h) any recourse to the special provisions authorising the gradual application of the international regulations ?
- (i) any recourse to the special provisions for certain areas or countries ?

#### AUSTRALIA

*Western Australia*

- 92. The reply is in the affirmative.
- 93. The reply is in the affirmative.

#### BELGIUM

- 92. The reply is in the affirmative.
- 93. The reply is in the affirmative.

#### CANADA

*Manitoba*

- 92. The reply is in the affirmative.
- 93. The reply is in the affirmative.

*Ontario*

- 92. Yes; it is considered desirable that the international regulations should contain an indication of the information to be given in the annual reports presented.
- 93. Yes; the reports in question should include all the items outlined under clauses (a) to (i).

#### DENMARK

- 92. The reply is in the affirmative.
- 93. The reply is in the affirmative.

#### - FRANCE

- 92. The French Government considers that the annual reports should contain all the information needed on the measures taken to regulate hours of work in virtue of the Draft Convention or Conventions and on their results. In particular, they should contain statistics of recorded contraventions.
- 93. The reply is in the affirmative.

**SPAIN**

92. The reply is in the affirmative.
93. The reply is in the affirmative.

**SWITZERLAND**

92. The reply is in the affirmative.
93. The reply is in the affirmative.

**UNION OF SOUTH AFRICA**

92. The reply is in the affirmative.
93. Yes; where applicable.

**UNITED STATES OF AMERICA**

92. The reply is in the affirmative.
93. The reply is in the affirmative.

## CHAPTER II

### GENERAL SURVEY OF THE REPLIES TO THE QUESTIONNAIRE

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Before considering in detail the replies given to the various points of the Questionnaire, it will be desirable to indicate the general tendencies that may be deduced from the replies as a whole, and in particular from those from Governments which have submitted only a few general observations.

The Governments of the following countries did not reply in detail to the Questionnaire: Egypt, Estonia, Finland, Great Britain, India, Iraq, Ireland, the Netherlands, Poland, Siam, Sweden, and Turkey. A similar attitude is adopted by the Governments of the Australian States of New South Wales, Queensland, South Australia, Tasmania, and Victoria, and the Canadian Provinces of Alberta and British Columbia.

The Governments of the following countries replied to the various points of the Questionnaire: Belgium, Denmark, France, New Zealand, Spain, Switzerland, the Union of South Africa and the United States of America. In addition, statements on the various points were made by the Governments of the State of Western Australia, and the Canadian Provinces of Manitoba and Ontario.

### GENERAL CONSIDERATIONS

Most of the replies that are given in general terms are opposed to the principle of the contemplated international regulations. Several of these replies are explicitly negative, namely those from Estonia, Great Britain, India, Ireland, the Netherlands, Poland, and Turkey, as well as the Canadian Province of Alberta.

The Estonian Government's decision is based on the risk that the proposed reduction of hours would lower the competitive power of the relatively young industry of Estonia and on the fact that there is no unemployment in that country. Estonia also wishes to avoid any lowering of the workers' purchasing power and any increase in costs in commercial establishments. The Indian and Turkish Governments point out that hours of work have recently been reduced in their countries and that any additional burdens would cause inconvenience. The British Government remains of the opinion that the question of the reduction of hours of work can only be dealt with industry by industry in the light of the characteristics of each industry and taking into account the

effect on wages of any proposed reduction. Similarly, the Netherlands Government, which notes that the reduction is recommended less as a remedy for unemployment than as a means of improving the social condition of the workers, declares that it cannot collaborate in the drafting of so comprehensive and so radical a Convention as that proposed. It admits that in particular instances the introduction of the 40-hour week might be considered. The Irish Government does not contemplate any further general reduction of hours of work, although arrangements have been made in Ireland for the periodical examination of the conditions and circumstances of particular forms of work with a view to the reduction of hours whenever this appears desirable. The Polish Government's objection is that the question of the reduction of hours is not at present an issue in Poland and that the carrying out of the reform would meet with difficulties in the international field. This opinion is shared by the Canadian Provincial Government of Alberta.

The replies of the Governments of Siam and Sweden, as well as of the Canadian Province of British Columbia must also be considered to be opposed to the proposed regulations. The Swedish Government recalls that the Riksdag expressed itself against ratification of the general Convention of principle of 1935. In the present conditions it is improbable that Sweden could ratify a general Convention on the 40-hour week without very considerable reservations. Reasons exist for considering the question of a reduction of hours of work in branches of activity which are dangerous to the workers' health or in certain branches of industry in which the speed of work has been increased in consequence of rationalisation measures. But even on the question of a reduction of hours by stages during a relatively long period, the Swedish Government is unable to reply to the Questionnaire, owing to the attitude it has adopted towards the 40-hour week.

In the absence of a reply from the Commonwealth Government of Australia, the Office received communication of the views of each of the six Australian States, but their replies agree only on one point, namely, that they cannot contemplate the reduction of hours of work, which in each State are fixed by the decisions of boards or courts, unless a general measure is taken for the whole Commonwealth. The conference of Commonwealth and State Premiers which discussed this question was unable to arrive at a unanimous decision. The Government of South Australia holds that the Office should consider the adoption of a system of tribunals such as that constituted in this State, which has proved satisfactory. It is unlikely that any action will be taken by the Victorian Government to reduce the hours of work in the industries where this subject is dealt with by wages boards, unless as part of a general reduction in all trades. In Queensland and New South Wales the position with respect to the industries mentioned in the Questionnaire does not appear to require any alteration of the system in force.

Among the Governments which do not reply in detail to the Questionnaire, even those which state that they are not opposed to the adoption of an international Convention do not contemplate introducing the proposed reduction in their own countries. The Egyptian Government is unable to do so for economic and social reasons; it is nevertheless in sympathy with proposals to reduce hours of work throughout the world to limits more compatible with the welfare of workers than those at present obtaining. In the same way, the Iraqi Government states that it has no objections. The Government of the Australian State of Tasmania declares that it is prepared to implement within its sphere of legislative power the principle of the 40-hour week, but only as part of a general Australian policy.

Only the Finnish Government's reply does not reject the possibility of a general reduction of hours of work, but it makes it clear that it is not practicable to apply such a reduction, at any rate for the moment. The Government is prepared to discuss the question of reducing hours of work, or even to apply such a reduction in a manner and to a degree suited to the conditions of the country, if it is applied also by the countries with which Finland has close economic relations.

Lastly, among the eight Governments which replied in detail to the Questionnaire, six are in favour of the proposed regulations, while two—those of Switzerland and the Union of South Africa—put forward essential reservations.

There is little likelihood of the Government of the Union of South Africa finding it possible to ratify any Convention reducing the hours of work to 40 in the week. Whatever its attitude towards the principle of a reduction of hours, its interest in a Convention that does not provide for the possibility of regional application must be largely of an academic rather than of a practical nature. The Swiss Government does not object to the reduction of hours of work by means of an international Convention, but it considers that so far-reaching a reform as the general reduction of hours to 40 in the week is possible only if certain international conditions are fulfilled. It must be extremely cautious when considering measures which would endanger the economic equilibrium of the country still further, that equilibrium being in any event unstable and already seriously shaken by the recent depression. By replying in detail to the Questionnaire, however, the Government wishes to show that it is not indifferent to the work of the International Labour Conference.

The favourable reply of the French Government is preceded by a general statement indicating that the Government has recently been compelled to take account of the fact that French hours of work legislation was far in advance of the legislation of most, if not all, other countries. Consequently, as long as these other countries have not adopted a limitation of hours of work approximating to the standards established in France, the Government reserves to itself the right to maintain in force for the time being more extensive

adjustments and facilities for the application of the law than those it recommends with a view to the international reduction of hours of work.

In the following analysis of the replies of Governments, account is taken in general only of the conclusions contained in these replies. For the reasons on which the conclusions are based and any accompanying comments, reference should be made to the actual text of the replies, reproduced in Chapter I.

## I. — Form of the Regulations

### Question 1 (Replies on pp. 12 to 14)

The various Governments which replied to question 1 clearly indicate their preference for two Draft Conventions, one applying to industry and the other to commerce and offices.

The Government of the United States of America, which considers a separation of the regulations for industry from those for commerce and offices desirable, adds that legislation in the United States at present specifically exempts certain broad classifications of commercial establishments, and that the Government is not prepared to take a position at this time with reference to a Convention dealing with hours of work in commerce and offices. Only the French Government sees no particular advantage in one of the two systems as compared with the other, but it states that it will support any measure likely to obtain the necessary majority for the adoption of a Draft Convention.

A few suggestions are given concerning the scope of the two proposed Draft Conventions. The New Zealand Government's reply points out that the term "industry" should be understood to exclude agriculture and domestic service. The Swiss Government considers that the Convention should apply to industry and "arts and crafts" as understood in Switzerland.

In the opinion of the Government of the Union of South Africa, the Convention concerning commerce and offices should have two parts, one for commerce and the other for offices. Further, if the proposal to extend the Convention to cover institutions such as hospitals and nursing homes is accepted, such institutions should be dealt with in a separate part of the Convention, and it should be possible for Governments to ratify any one or more parts.

## II. — Scope

### METHOD OF DETERMINATION OF SCOPE

### Question 2 (Replies on pp. 14 to 15)

All the Governments are in favour of a definition based on the enumeration of the categories of undertakings and establishments

to be covered. The New Zealand Government even stresses the desirability of making this enumeration as exhaustive as possible.

## SCOPE AS REGARDS UNDERTAKINGS AND ESTABLISHMENTS

### *Industrial Undertakings*

Questions 3 and 4 (Replies on pp. 16 to 18)

All the Governments are in favour of including industrial undertakings, although some of them put forward reservations or comments with regard to one or other of the suggested categories of undertakings.

The reservation made in the widest terms is that of the Danish Government, which proposes that the Convention should keep to the list used in the Hours of Work (Industry) Convention, 1919 (No. 1).

The French Government replies that the conditions to be adopted should be similar to those already prescribed in the other hours of work Conventions. The United States Government notes that the regulations in the United States do not apply to undertakings engaged primarily in local services and trade, and suggests that there should be a possibility of exempting from the application of the Convention the first processing of agricultural products. The Swiss Government, while agreeing to the proposed enumeration, has not yet enacted any legislation applicable to mines, arts and crafts, or construction, and the Government has therefore no means of enforcing an international Convention in these industries.

No special reservation is made with regard to undertakings in manufacturing industries.

For undertakings engaged in building and civil engineering, the Government of the Union of South Africa proposes the exemption of State activities.

For mines, quarries, and other works for the extraction of minerals, only the Government of the Union of South Africa is opposed to their inclusion in the scope of the Convention.

The Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, Spain, Switzerland, the Union of South Africa, and the United States of America consider that no categories of industrial undertakings other than those enumerated in question 3 should be included in the scope of the proposed Convention. The only replies calling for an extension of the list are those of the New Zealand Government, which suggests the inclusion of packing for transit and packing of goods where performed separately from the productive process, and the French Government, which wishes the formal inclusion of undertakings for the distribution of gas, water, and heat. Lastly, the Government of the State of Western Australia considers that in general the international regulations should apply to all industrial undertakings of whatever nature.

*Commercial Establishments and Offices*

Questions 5 and 6 (Replies on pp. 18 to 21)

Taking question 5 as a whole, a general reservation is made by the United States Government, which is not prepared to take a position at this time with reference to a Convention dealing with hours of work in commerce and offices. A general statement is also made by the Danish Government, which holds that as regards public administrative services it should be compulsory to discuss the question with the competent authorities. The New Zealand Government simply agrees in general to the inclusion of the "commercial establishments and offices set out"; in addition, it should be noted that in its reply to question 15, it states that essential public services should be excluded, a remark that appears to affect the categories referred to in question 5.

As regards the inclusion of commercial or trading establishments, including postal, telegraph, and telephone services and commercial or trading branches of any other establishments, the only replies given entirely in the affirmative are those of the Canadian Provincial Government of Ontario and the Spanish Government. All the other Governments propose the exclusion of postal, telegraph, and telephone services, although the Swiss Government considers that these services should be excluded only if they belong to the State.

To the question whether establishments and administrative services in which the persons employed are mainly engaged in office work should be included, the replies are in general in the affirmative. The Belgian Government, however, replies in the negative, and the Government of the Union of South Africa holds that State activities should be excluded. The latter Government also proposes that the Convention should provide in a separate part for offices other than those conducted in connection with shops.

The replies to the question concerning the inclusion of mixed commercial and industrial establishments are all in the affirmative, subject to the general reservations already mentioned.

As regards the inclusion of hospitals and similar establishments, the replies from Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, and Spain are in the affirmative, while those from Switzerland and the Union of South Africa are in the negative. There is no reply from the Government of the State of Western Australia on this point.

The question whether hotels, restaurants, and similar establishments should be included is answered in the affirmative by the Governments of the State of Western Australia, Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, and Spain, and in the negative by the Governments of Switzerland and the Union of South Africa.

As regards the inclusion of theatres and places of public amusement, all the Governments reply in the affirmative, except that of Switzerland, which replies in the negative.

In the opinion of the Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, New Zealand, Spain, Switzerland, and the Union of South Africa, there are no categories of commercial establishments and offices other than those enumerated in question 5 to which the international regulations should apply. The French Government asks for the addition of establishments providing personal services.

### *Transport*

#### Question 7 (Replies on pp. 21 to 22)

Apart from the Swiss Government, from which no reply was received, and the Government of the Union of South Africa, whose reply is in the negative, the various Governments are in general in favour of the inclusion of (a) transport services of industrial undertakings and commercial establishments, where these services are used only to meet the requirements of those undertakings or establishments, are not open to public traffic and do not operate on public roads or inland waterways; (b) the services of transport undertakings which have no direct and necessary connection with the operation of the transport services themselves.

Observations are, however, put forward by the Governments of New Zealand and the United States of America. The United States Government replies in the affirmative on point (a), but only as regards the transport services of the industrial undertakings referred to in question 3, in view of the attitude it adopts with regard to commercial establishments and offices; its reply to point (b) is in the affirmative, but it considers that the definition of "transport services" should be worked out by the competent authority of each country. The New Zealand Government replies in the affirmative to the whole question, but suggests that emergency repair activities in engineering shops should be distinguished from routine repair activities, and should preferably be dealt with in connection with the transport undertakings themselves.

### *Possible Exemptions*

#### Questions 8 to 11 (Replies on pp. 22 to 26)

#### *Family undertakings and small undertakings*

On the question whether family undertakings should be exempted, the replies are in the affirmative, except that from the Spanish Government. The French Government holds that if undertakings or establishments where only "members of the employer's family" are employed are to be excluded, this term should be taken to mean solely the wife (husband), children, and wards under age of the head of the undertaking or establishment.

The exemption of small undertakings or establishments ordinarily employing not more than six persons is accepted unreservedly only by the Governments of the State of Western Australia and the Canadian Province of Ontario.

Although the Danish Government replies in the affirmative, it points out that the exemption of small undertakings would inevitably place a considerable number of undertakings outside the scope of the Convention. In the opinion of the United States Government, the blanket exemption of small establishments is not desirable, but the competent authority should be given permission to exempt certain small undertakings. The Government of the Union of South Africa holds that the limit defining the exemption (i.e. the number of persons employed) should be left to the competent authority to fix, provided that the figure is not in excess of six. Similarly, the Swiss Government would prefer that the right of exemption be left to the national authority. It recommends, on the one hand, that the limit should be different for industry, handicrafts, and commerce, and on the other, that the maximum should be fixed at five persons instead of six.

The New Zealand Government agrees that it is necessary to provide for exemptions, and recommends that these should be fixed in each case by a special tribunal. In its view the size of an establishment is not a correct basis of exemption, which should be related to the process involved rather than to the unit of production.

The Governments of Belgium, the Canadian Province of Manitoba, France and Spain are opposed to the exclusion of small undertakings or establishments.

#### *Other undertakings or establishments*

On the question of exempting certain categories of undertakings or establishments other than family or small undertakings, opinion is divided.

The Danish Government maintains that it is not possible to state in advance which undertakings ought to be exempted, although as a general rule it considers that those undertakings should be exempted in which the reduction of hours of work can hardly be expected to lead to the engagement of additional staff or in which it is impossible to exercise the necessary supervision.

The United States Government considers that there should be permission for the competent authority to exempt the first processing of agricultural products. The New Zealand Government makes a similar suggestion: it proposes the exemption of industries immediately associated with primary production where immediate handling of the product is an essential condition for its preservation, e.g. creameries, cheese and butter factories, meat, fish, vegetable and fruit preserving and ancillary trades.

The Swiss Government recommends the exemption of home work, domestic service, and agriculture and forestry.

The Government of the Union of South Africa relates the question of exempting certain categories of undertakings to question 68, concerning the exemption of certain areas. It suggests that any of the classified undertakings or establishments located in such

sparingly populated areas as the competent authority may decide may be exempted.

The Government of the State of Western Australia replies in the affirmative to the question, but does not indicate which categories of undertakings should be exempted.

On the other hand, the Governments of Belgium, the Canadian Province of Manitoba, France and Spain do not contemplate additional exemptions. The French Government, however, suggests that provision should be made for the possibility of adapting the principle of the reduction of hours of work to the special conditions of operation of certain categories of undertakings.

### *Procedure*

The Governments of the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, Spain, Switzerland, the Union of South Africa and the United States of America are in favour of the consultation of the organisations of employers and workers concerned before any categories of undertakings or establishments are exempted. The Spanish Government adds that this consultation should be conditional, but does not explain in detail what is meant by this term. The Swiss Government holds that the competent national authority should choose the method of consultation.

The replies from the Governments of Belgium and the State of Western Australia are in the negative.

## SCOPE AS REGARDS PERSONS

### Question 12 (Replies on pp. 26 to 27)

All the Governments consider that the international regulations should apply to all manual and non-manual workers, including apprentices, employed in the undertakings or establishments covered. The Swiss Government adds that voluntary workers might also be covered by the regulations.

### *Possible Exemptions*

### Questions 13 to 17 (Replies on pp. 27 to 32)

#### *Persons occupied in a position of management or in a confidential capacity*

On the question whether persons occupied in a position of management or in a confidential capacity should be exempted, Governments were asked to state their preference for one of two alternatives: (a) the explicit exemption of such persons; (b) the exemption of persons "who by reason of their special responsibilities are not subject to the normal rules governing the length of the working time". While certain Governments express their preference for one of these alternatives, others consider that both can be accepted.

The Governments of Belgium and the Canadian Province of Ontario are in favour of alternative (a).

The Governments of New Zealand, Spain, the Union of South Africa and the United States of America, on the contrary, prefer alternative (b). The New Zealand Government adds that the right to exemption should not exist in the case of workers, such as foremen or charge hands, whose function is merely to exercise a supervisory control under the direction of another. The United States Government holds that the regulations in question should not permit an exemption to apply to a substantial proportion of the employees of any undertaking.

The Governments of the State of Western Australia, the Canadian Province of Manitoba, Denmark and Switzerland reply with a general affirmative and express no preference for either of the two alternatives proposed. The Swiss Government, however, considers that if the regulations are to be relaxed for the class of persons in question, the general exemption suggested in alternative (b) would be too far-reaching since the words "special responsibilities" might be interpreted too extensively.

The French Government considers that the only categories of persons to be exempted should be those who are responsible for the management of undertakings or parts of undertakings and may thus be treated on the same footing as the heads of undertakings.

#### *Travellers and representatives*

To the question whether the competent authority in each country should be permitted to exempt from the application of the international regulations travellers and representatives, in so far as they carry on their work outside the undertaking or establishment, all the Governments reply in the affirmative except those of the Canadian Province of Manitoba and New Zealand, which are opposed to this exemption. The New Zealand Government explains that in spite of the difficulties that may arise if the definition of hours of work contemplated in question 19 is adopted, travelling representatives should not be exempted, on condition that some flexibility is provided in the application of the regulations to these workers, in order to meet the position that arises through transit from place to place unless actual physical activity occurs during rest hours.

#### *Staffs of Government services*

The problem of the exclusion of the staffs of Government services, whether national, provincial or local, other than those employed in industrial or commercial activities (which includes postal, telegraph and telephone services) was the subject of two questions: (a) Governments were asked to give their views on the principle of exemption, and (b) they were asked to indicate which staffs, or parts of staffs, of Government services the competent authority should be permitted to exempt.

It will be remembered that the Governments of Denmark and the Union of South Africa, in their reply to the questions concerning the scope of the regulations as regards industrial undertakings and as regards commercial establishments and offices, put forward reservations with a view to the general exclusion of undertakings or establishments run by the State or public authority. The attitude adopted by the Governments of Belgium, France, Switzerland and the United States of America in their replies to question 15 (b) would lead to an exclusion of the same kind.

All the Governments are in favour of the principle of exemption.

As regards the categories of staff to be exempted, some are in favour of the exemption of all staffs of Government services, others in favour of a partial exemption.

An entirely general exemption is recommended by the French Government, which considers that all Government staff, as defined in the national laws or regulations of each State, should be excluded from the application of the Convention, and that this should apply even in the case of services of an industrial or commercial nature. The United States Government similarly proposes that the regulation of any part of the staff of Government services should be left to the discretion of the competent authority. The Belgian Government considers it unnecessary to indicate the particular categories of staff to be exempted, since in its opinion all officials of public administrations should be excluded from the scope of the regulations. The Government of the Union of South Africa likewise considered that it should be possible to exempt all categories of Government staff. A similar measure is recommended by the Swiss Government, which contemplates the exclusion both of officials whose appointment is governed by public law and of persons employed in public departments whose appointment is governed by private law.

Less extensive exemptions are recommended by the Governments of the State of Western Australia, which would exclude men on essential services or continuous processes, of the Canadian Province of Manitoba, which mentions only heads of departments, and of New Zealand, which recommends the exclusion of essential public services, the services to be regarded as essential to be determined by a tribunal.

The Danish Government explains that it is not possible to state in advance which staffs or parts of staffs should be covered by the exemption.

#### *Other categories of persons*

To the question whether there are any categories of persons other than those referred to in questions 13 to 15, which the competent authority should be permitted to exempt, the Governments of the State of Western Australia, the Canadian Province of Ontario, Switzerland and the Union of South Africa reply in the affirmative. The Swiss Government recommends the exemption of persons who are not employed in the operation of the under-

taking, for instance those exclusively employed in cleaning premises or in social services (kitchens, canteens, welfare work, infant schools, etc.). The Government of the State of Western Australia proposes the exemption of caretakers, etc., and the Government of the Union of South Africa holds that the competent authority should have the power to exempt any category of persons.

The Danish Government declares that it is not possible to state in advance which categories should be exempted.

The Governments of Belgium, the Canadian Province of Manitoba, France, New Zealand, Spain and the United States of America do not propose any exemptions other than those mentioned in questions 13 to 15.

### *Procedure*

The competent authority should be required to consult the organisations of employers and workers concerned before exempting any categories of persons, in the opinion of the Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, France, New Zealand, Switzerland, the Union of South Africa and the United States of America. The French Government accepts the idea of consultation except for the staffs of Government services as defined in the national laws or regulations of each State, including the staffs of services of an industrial or commercial nature and the staff of postal, telegraph and telephone services; in its reply to question 15, the French Government proposes the absolute exemption of these persons. The Swiss Government considers that the national authority should be entirely free to decide on the method of consultation.

Replies in the negative are given by the Governments of the State of Western Australia, Denmark and Spain.

## **III. — Limitation of Normal Hours of Work**

### **DEFINITION OF HOURS OF WORK**

Questions 18 and 19 (Replies on pp. 32 to 34)

All the Governments agree that the international regulations should include a definition of hours of work.

All the Governments except those of France and the Union of South Africa agree to the definition proposed in the Questionnaire to the effect that the term "hours of work" means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements. The French Government proposes that hours of work should be defined as the time during which the staff is at the disposal of the employer on condition that when the work normally includes periods of inactivity this should be taken into account by means of an exten-

sion, to be determined, of the hours of attendance. The Government of the Union of South Africa considers that the proposed definition is too wide, particularly if hospitals are included in the scope of the regulations, and refers to its earlier suggestion that the Convention should be divided into separate parts; in that case each part should contain an appropriate definition of hours of work.

#### GENERAL LIMITATION OF NORMAL HOURS OF WORK FOR NOT NECESSARILY CONTINUOUS PROCESSES

Questions 20 to 23 (Replies on pp. 34 to 37)

##### *Limit of Hours of Work*

In order to get a clear idea of the position with regard to the crucial question whether the international regulations should limit normal weekly hours of work to 40, it is important to bear in mind the general statements reproduced on pages 1 to 12 of this Report and summarised at the beginning of this chapter. Those States which do not approve the adoption of international regulations on the reduction of hours of work may be regarded as replying negatively in particular to question 20.

Of the Governments which reply in detail, those of the State of Western Australia, Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, Spain and the United States of America approve of the proposed limit of 40 hours a week. The Government of the State of Western Australia only approves on condition that this limit is applied universally. The New Zealand Government is in general agreement with the proposed limit, subject to the establishment of a tribunal to determine whether in respect of any category or undertaking such a limitation is impracticable. The United States Government, in approving the weekly limit of 40 hours, refers to its reply to question 62 in which it accepts the principle of reducing hours by stages.

On the other hand, the Governments of Switzerland and the Union of South Africa do not approve of the proposed limit, the former for the reasons which have been set out in the general statement with which its reply to the Questionnaire is prefaced<sup>1</sup> and in the replies to earlier Questionnaires.

##### *Averaging*

All the Governments agree that the competent authority should be authorised to permit the calculation of the normal limit of hours of work as an average over a period exceeding one week. The New Zealand Government, however, considers that the competent authority should only be permitted to allow averaging in respect of

<sup>1</sup> See p. 11.

specified cases and not as a general rule. The United States Government considers that averaging should only be permitted under strictly defined conditions and refers to the legislation at present in force in the United States.

As regards the procedure to be followed for permitting hours to be calculated as an average, all the Governments, with the exception of the United States Government, consider that this permission should be granted by regulation. All the Governments agree that the organisations of employers and workers concerned, where such exist, should be consulted before the authorisation is given, with the exception of the Government of the State of Western Australia which, however, points out that if the Arbitration Court were the competent authority, employers and workers would submit their views to it. The Swiss Government adds that the competent authority should be free to choose the method of consultation. The United States Government indicates that the present legislation does not permit the competent authority to authorise calculation of hours as an average unless in pursuance of an agreement made as a result of collective bargaining by *bona fide* representatives of employees.

All the Governments agree that the period over which the limit of hours may be calculated should be determined by the competent authority in each country, with the exception of the United States Government, which indicates that averaging can under present legislation in the United States only be permitted in pursuance of an agreement.

As regards the length of the period, only the Danish and United States Governments offer any suggestions. The Danish Government considers that it should not be too long, and suggests 6 weeks as a suitable limit. The United States Government points out that the present legislation in the United States does not permit averaging unless in pursuance of an agreement which provides either that no employee shall be employed for more than 1,000 hours during any period of 26 consecutive weeks or, where the employee is employed on an annual basis, shall not be employed more than 2,000 hours during any period of 52 consecutive weeks.

Differing points of view are expressed regarding the procedure to be followed for the determination of the period over which hours should be calculated. The Governments of the State of Western Australia, Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, Spain and the Union of South Africa agree that this period should be determined by regulation. In the reply of the New Zealand Government, no mention is made of regulations, and the Swiss Government considers that the Draft Convention should allow the period to be determined not only by regulation but also by means of special permits issued by the competent authority or under an agreement approved by that authority. The United States Government points out that under the present legislation an agreement made as a result of collective bargaining by *bona fide* representatives of employees is required.

## LIMITATION OF NORMAL HOURS OF WORK FOR NECESSARILY CONTINUOUS PROCESSES

Questions 24 to 28 (Replies on pp. 37 to 40)

### *Limit of Hours of Work*

The Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, and Spain agree that in the case of necessarily continuous processes the international regulations should limit the normal weekly hours of work to 42. The New Zealand and United States Governments favour the limit of 40 hours and the latter consequently does not reply to the detailed questions regarding the special limit. The Government of the State of Western Australia in replying negatively to this question but affirmatively to the subsequent questions dealing with the same subject, presumably also approves the limit of 40 hours. The New Zealand Government adds that there should be a right of extension by an established tribunal if a limit of 40 hours a week is impracticable.

The Government of the Union of South Africa favours a limit of 48 hours while the Swiss Government does not approve the limit suggested for the reasons given in a general statement with which it prefaced its reply<sup>1</sup>.

All the Governments agree that the processes which are required by reason of the nature of the process to be carried on by a succession of shifts without a break at any time of the day, night or week, should be determined by the competent authority in each country, but there does not appear to be general agreement that this should be done by regulation. The Belgian Government, for instance, suggests that this should be determined either by regulations or in some other manner. The New Zealand Government suggests that the established tribunal could define the necessarily continuous processes where a limit of 40 hours was not practicable, and the Swiss Government considers that it should be possible to determine these processes also by means of special permits where this system exists.

### *Averaging*

All the Governments agree that the normal weekly limit of hours for necessarily continuous processes should be calculated as an average over a period exceeding one week, the New Zealand Government adding that this should be done only in specified cases and not as a general rule.

In the same way, all the Governments agree that the period over which the limit of hours may be calculated should be determined by the competent authority in each country, the Swiss Government adding that this might be done by means of special permits issued

<sup>1</sup> See p. 41.

by the competent authority or under an agreement approved by it.

All the Governments agree that before determining the period over which the limit of hours for necessarily continuous processes may be calculated, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist, the Government of the State of Western Australia pointing out that, as there is in their State an Arbitration Court, consultation would naturally happen as employers and workers would submit their views. The Swiss Government repeats its suggestion that the competent authority should be free to choose the method of consultation.

#### SPECIAL LIMITATION OF NORMAL HOURS OF WORK FOR CERTAIN CATEGORIES OF UNDERTAKINGS OR OCCUPATIONS

Questions 29 to 38 (Replies on pp. 40 to 47)

All the Governments, except those of New Zealand and the United States, agree that the international regulations should recognise the principle that the competent authority may authorise normal weekly hours of work in excess of 40 in respect of any undertaking or branch thereof, falling within the categories mentioned below, in the cases in which the nature of the work of a considerable proportion of the persons employed is such that it comprises periods of activity interrupted by substantial periods of inactivity or mere presence. The New Zealand Government considers that as long as the definition of hours of work proposed in the Questionnaire is adopted, no special limitation should be granted. The United States Government refers to its reply to question 5, in which it states that legislation in the United States at present specifically exempts certain broad classifications of commercial establishments and that the Government is not prepared to take a position at this time with reference to a Convention dealing with hours of work in commerce and offices. Consequently the United States Government does not reply in detail to any of the questions dealing with the categories of undertakings or occupations under consideration.

All the Governments consider that the competent authority should determine the categories of persons employed in any such undertaking or branch thereof in respect of whom the longer limit may, owing to the nature of their work, apply, except that the New Zealand Government, because it does not consider longer limits necessary, has no comments to make on this question, and that the Swiss Government does not reply to it.

#### *Retail and Service Trades*

The Governments of the State of Western Australia, Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, and

France approve the suggested limit of 44 hours a week as regards all or certain persons employed in establishments in the retail and service trades, and 48 hours in the case of such persons employed in establishments in the retail and service trades which, owing to their nature, are customarily required by the public to remain open during prolonged periods of the day or week or at unforeseen times. The New Zealand Government suggests that the normal rule should be followed in this case, that hours should be fixed at 40 hours with a right of extension by an established tribunal if such a limit is found to be impracticable. It adds that retail establishments that are required to remain open during prolonged periods might overcome any difficulty concerning the limitation of the hours of workers by staggering the period in which the workers shall be employed. The Spanish Government replies negatively to these questions.

The Governments of Switzerland and the Union of South Africa consider that the limit of 44 hours is too short. The Swiss Government points out that a 48-hour week would in many cases not be long enough and that in the federal draft bill concerning employment in commerce and handicrafts a 52-hour week is provided for shops. The Government of the Union of South Africa suggests a limit of 46 hours, without making any distinction between the categories of establishments mentioned above.

#### *Hotels, Restaurants and Similar Establishments*

The Governments of the State of Western Australia, the Canadian Provinces of Manitoba and Ontario, Denmark and France approve the suggestion that the competent authority be allowed to fix the limit of hours at a figure not exceeding 52 a week in the case of all or certain persons employed in hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses.

In some replies, shorter limits are proposed. Thus the Belgian and Spanish Governments propose a 48-hour week and the French Government suggests that in the case of cooks the hours of attendance should be reduced to 45 in the week. The New Zealand Government does not support a limit of 52 hours and considers that there appears to be no reason to depart from the general rule, that is to say a 40-hour week.

On the other hand the Government of the Union of South Africa, while recognising that special conditions are necessary for this trade, considers that the 52-hour week can only be applied in densely populated areas and then not to every class of employees and the Swiss Government suggests that it might be more reasonable to regulate the daily rest rather than the hours of work.

#### *Curative Establishments*

The Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France and Spain approve the sug-

gestion that the competent authority be authorised to fix a normal weekly limit of hours not exceeding 48 in the case of all or certain persons employed in public or private establishments for the treatment or care particularly of the aged, sick, infirm, destitute or mentally unfit.

The Government of the State of Western Australia considers the matter should be left entirely to the competent authority. The Governments of New Zealand and the Union of South Africa raise the question whether these categories of workers should be covered at all. The New Zealand Government, in replying to question 5, agrees that the commercial establishments and offices set out in the question should be covered by the international regulations. In referring to this reply in connection with question 34, it may be inferred that the New Zealand Government considers that curative establishments should not be covered by the regulations. The Government of the Union of South Africa considers that it is impracticable to apply general Conventions to this group, but that it constitutes an occupation which, by reason of its peculiar nature, would require a separate Convention or at least a separate part of a Convention. The Swiss Government suggests that it might be more reasonable in this case to regulate the daily rest rather than the hours of work.

### *Theatres and Places of Amusement*

The Governments of Belgium and the Canadian Provinces of Manitoba and Ontario, Denmark, France, and Spain agree to the suggestion that the competent authority might apply a normal weekly limit of hours not exceeding 48 to all or certain persons employed in theatres and places of public amusement. The Government of the Canadian Province of Manitoba adds that the limit should be set at less than 48 in the case of moving picture operators.

The Swiss Government suggests that for this category of establishments also it might be more reasonable to regulate the daily rest, and the Government of the Union of South Africa considers that the hours of work of occupations or establishments included in this group should be covered by a separate part of the Convention in the manner suggested in its replies to earlier questions. The New Zealand Government suggests that the question is one that might be left to a tribunal without specifying the weekly hours, while the Government of the State of Western Australia points out that the hours of work of these categories of persons are mostly controlled by federal bodies over which the State of Western Australia has no jurisdiction.

### *Other Undertakings*

The Governments of the State of Western Australia, Belgium, the Canadian Province of Ontario, France, Switzerland, and the Union of South Africa do not suggest that the international regu-

Iations should authorise a normal weekly limit of hours in excess of 40 for any other categories of undertakings or occupations.

Other Governments make certain proposals in this respect. The broadest suggestion is that of the Government of the Canadian Province of Manitoba, to the effect that the competent authority should be authorised to apply a normal weekly limit of hours not exceeding 44 to industrial undertakings or occupations. The Danish and New Zealand Governments make other general proposals for longer limits of hours of work. The Danish Government suggests that the competent authority should be authorised to permit exceptions to the normal limit of 40 hours per week in exceptional cases when decisive reasons justify such action, and adds that it is not in its opinion possible to determine in advance what limits of hours of work would be required in such cases. The New Zealand Government considers that special limits of hours in excess of 40 could be applied to any undertakings or occupations by an established tribunal if a limit of 40 hours a week is impracticable. In addition, the Swiss Government proposes that hours of work might be fixed at 52 in the week for small establishments unless they are entirely exempted from the scope of the Convention as suggested in the reply of the Swiss Government to question 9. The Government of the State of Western Australia suggests limits of hours in excess of 40 for caretakers and watchmen.

### *Procedure*

All the Governments, with the exception of the Belgian Government, consider that the competent authority in each country should be authorised to permit by regulation the calculation of the special limits of normal weekly hours of work for the categories of undertakings mentioned above as an average over a period exceeding one week. This period should in that case be determined by the competent authority. The Swiss Government, however, considers that it should be possible to grant this permission not only by regulation but also by permit or by agreement approved by the authority. The New Zealand Government repeats its opinion that authorisation to calculate hours of work as an average should be given only in specified cases or for stated reasons and not as a general rule. It adds that it will probably be found that some provision should be made in respect of hotels in holiday resorts and that it is possible also to justify averaging of hours in curative establishments, but not in respect of retail or service trades or theatres.

In all cases, Governments consider that before authorising the use of any of the provisions which may arise out of the replies to the questions discussed above, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist. The Swiss Government adds that the competent authority should be free to choose the method of consultation.

### MAKING UP LOST TIME

Questions 39 to 42 (Replies on pp. 47 to 50)

The Governments of Belgium, the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, Spain, and Switzerland consider that the international regulations should provide for the possibility of making up time lost through collective stoppages of work.

On the other hand, the Governments of the State of Western Australia, the Union of South Africa, and the United States of America do not approve of such measures. In consequence, they do not reply to the detailed questions on the subject.

All the Governments which approve the making up of lost time agree that this should apply in the case of collective stoppages of work resulting from accidental causes or causes of *force majeure* and from weather conditions.

On the other hand, there is not any unanimity as regards the making up of lost time through public holidays falling on a working day. The Governments of the Canadian Province of Ontario, Denmark, France, Spain, and Switzerland approve of this possibility, but the Governments of Belgium and New Zealand do not approve of it. The Government of the Canadian Province of Manitoba considers that this possibility should apply only for public service.

The French and Swiss Governments suggest that the possibility of making up lost time might also apply to cases other than those suggested in question 40. The French Government considers that it should be possible to make up time lost through any collective stoppages of work, except stoppages due to strikes or lock-outs. The Swiss Government asks why the proposed provision should be limited to making up time lost for collective stoppages, as the same provision may be necessary to meet individual cases.

All the Governments which approve the making up of lost time also agree that the competent authority should be required in such cases to determine the conditions under which lost time may be made up, the period within which it may be made up, the maximum extension of hours permitted, and that before doing so the competent authority should be required to consult the organisations of employers and workers concerned, where such exist. The Swiss Government adds that it considers the regulations should be as flexible as possible and that the competent authority should be free to choose the method of consultation.

### IV. — Extensions of Hours of Work

#### EXTENSIONS FOR CERTAIN CATEGORIES OF WORK OR OCCUPATION

Questions 43 to 46 (Replies on pp. 50 to 54)

Governments were asked whether they considered that provision should be made for the possibility of extending normal hours of

work for certain categories of work; preparatory or complementary work, essentially intermittent work, work which for technical reasons cannot be interrupted at will, work required to co-ordinate the work of two succeeding shifts, and work necessary for stocktaking and the preparation of balance-sheets.

As regards preparatory or complementary work, the Governments, except that of the Union of South Africa, agree that it should be possible to extend normal hours of work. The New Zealand Government, however, holds that restrictions as to time should be fixed.

All the Governments are agreed on the need for providing an extension for essentially intermittent work.

Similarly, all the Governments, except that of the Union of South Africa, consider that extension of the limits prescribed for normal hours of work may be permitted in the case of work which for technical reasons cannot be interrupted at will or which must be completed in order to prevent the deterioration of raw materials or manufactured goods.

The Governments of the State of Western Australia, the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, Spain, Switzerland and the United States of America are in favour of the possibility of extension in the case of work required to co-ordinate the work of two succeeding shifts. The New Zealand Government, however, suggests that the extension should be compensated by a reduction of normal hours in the subsequent week. The Belgian Government and the Government of the Union of South Africa are against extensions for this kind of work.

A favourable reply to the question concerning extensions for work necessary for stocktaking and the preparation of balance-sheets is given by the Governments of the State of Western Australia, the Canadian Provinces of Manitoba and Ontario, Denmark, Spain, Switzerland, and the United States of America. The Governments of Belgium, France, New Zealand and the Union of South Africa are opposed to this extension. The three last-named Governments consider that this work may be carried out by recourse to the overtime allowance provided for under another head.

The Danish Government and the Government of the Union of South Africa express a similar view in regard to all the extensions for the categories of work or of occupation mentioned above, but the latter Government is prepared to agree to a special extension for intermittent work.

To the question whether extensions should be permitted in any other cases than those mentioned above, all the Governments, except that of Switzerland, reply that no cases of extension other than those mentioned in the Questionnaire should be permitted. The Swiss Government holds that an extension may be necessary when the business outlook for the undertaking is poor, and when the undertaking is seriously affected by the introduction of legislation reducing hours of work.

All the Governments agree that in the proposed cases the limits and conditions fixed for the extensions should be determined by regulations issued by the competent authority in each country. The Swiss Government suggests that provision should also be made for extension by means of special permits.

The Governments are agreed in considering that the competent authority should be required to consult the organisations of employers and workers concerned before issuing the regulations authorising extensions. The Swiss Government, however, proposes that the competent authority should have the right to choose the method of consultation, and in this connection draws attention to the system in force in Switzerland, which provides for the establishment of a joint advisory committee.

### EXTENSIONS FOR ACCIDENTAL CIRCUMSTANCES

Question 47 (Replies on pp. 54 to 55)

In this question Governments were asked to consider two cases in which an extension of the normal limits of hours of work might be considered to be justified, that of accident and that of unforeseen absence of one or more members of a shift.

As regards the first case, nearly all the replies are in favour of the adoption of the ordinary clause providing for an extension in case of accident, actual or threatened, or in case of urgent work to be done to machinery or plant, or in case of *force majeure*, so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. The New Zealand Government, however, considers that there must be sufficient safeguards, and overtime must be paid; and the Government of the Union of South Africa is opposed to the extension unless the work done in these cases gives rise to overtime pay.

The attitude of the Governments towards the question of extensions in order to make good the unforeseen absence of one or more members of a shift is the same as that towards cases of accident, except that the United States Government replies in the negative on the ground that the extension is undesirable; nevertheless, it considers that extensions on the basis of overtime pay should be permitted.

### EXTENSIONS FOR LACK OF SKILLED WORKERS

Questions 48 to 50 (Replies on pp. 55 to 57)

The opinions given on the question whether provision should be made to permit extensions of the normal hours of work in cases of proved lack of skilled workers are fairly equally divided. The Governments of the State of Western Australia, the Canadian

Provinces of Manitoba and Ontario, Denmark, Spain and Switzerland consider that the international regulations should provide for the possibility of such an extension. The French Government adopts the same point of view, but asks for special safeguards. The Belgian Government, on the other hand, is opposed to the extension. The Governments of New Zealand, the Union of South Africa, and the United States of America are also opposed to the extension unless it gives rise to overtime pay.

All the Governments that express themselves in favour of the principle of the extension agree that the limits and conditions should be determined by regulations issued by the competent authority in each country. The Swiss Government considers that the regulations should not be rigid.

The Governments of the State of Western Australia, the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, Spain and Switzerland are in favour of requiring the competent authority to consult the organisations of employers and workers concerned before permitting the extensions in question.

#### EXTENSIONS FOR CATEGORIES OF UNDERTAKINGS OR ESTABLISHMENTS WHOSE ACTIVITY IS SUBJECT TO SEASONAL FLUCTUATIONS

Questions 51 to 54 (Replies on pp. 57 to 60)

All the Governments agree that extensions of the normal hours of work should be allowed for categories of undertakings or establishments whose activity is subject to seasonal fluctuations. The United States Government refers to the provisions in force in that country.

Further, all the Governments consider that the categories of undertakings or establishments in question should be determined by regulation by the competent authority, and that the limits and conditions for the extensions should be similarly determined. The New Zealand Government suggests that relief for seasonal undertakings may be desirable in a number of ways, such as entire exemption or adoption of a limit higher than usual for these undertakings, provision of an averaging method, or mere extensions. The Swiss Government recognises the need of laying down some limits and conditions, but states that they should be flexible.

On the question whether the competent authority should be required to consult the organisations concerned before issuing regulations, the Governments are agreed. The Swiss Government considers that the competent authority should be allowed to choose the method of consultation, and in this connection again draws attention to the system in force in Switzerland, which provides for the establishment of a joint advisory committee.

## OVERTIME WITH INCREASED REMUNERATION

Questions 55 to 61 (Replies on pp. 60 to 67)

*Limits*

As was stated in the Grey Report submitted to the last Session of the Conference<sup>1</sup>, the question arising here is that of temporary extensions of hours of work to which the employer may have recourse in order to meet economic or other requirements or any other unforeseen contingencies which may arise from time to time.

All the Governments that replied in detail to the Questionnaire are in favour of including a clause in the international regulations in order to authorise overtime with increased remuneration.

After replying to the question of principle, the Governments were asked to state whether they considered that overtime should be limited, and, if so, what the limits should be and what procedure should be followed.

It may be noted in this connection that the Governments of New Zealand and the United States of America consider that overtime should not be limited directly, but that, in order to restrict its use and as a safeguard against abuse, penalty rates of remuneration should be fixed. The United States Government suggests that this method would give the international regulations adequate elasticity to meet the varied problems of industry.

Similarly, the Danish Government, which considers that the right to work overtime should be limited, agrees that the reduction of hours of work may make it necessary to engage additional labour in exceptional cases, and that for this reason it may be inconvenient to have a fixed limit. The best method, in its opinion, would be to prescribe that only indispensable overtime should be authorised, on condition that it is compensated by the deduction of a corresponding number of hours of work from the normal working time, unless such compensation is impossible owing to the special nature of the work (e.g. repair of machinery).

On the other hand, the Governments of the State of Western Australia, Belgium, the Canadian Provinces of Manitoba and Ontario, France and Spain consider that the amount of overtime should be limited by the international regulations. The Swiss Government is in favour of fixing an overtime allowance but considers that the figure might be determined either by the international regulations or by the competent authority in each country. The Government of the Union of South Africa does not consider that the amount of overtime should be fixed in the international regulations.

In view of the fact that various national laws or regulations provide for the possibility of calculating overtime as an average

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<sup>1</sup> *Generalisation of the Reduction of Hours of Work.* Report V, Part I, p. 436.

over a period exceeding one week, Governments were asked whether they considered it desirable to compensate this difference by allowing a larger annual maximum amount of overtime for countries which do not authorise the calculation of hours as an average. The opinions on this question of principle are divided. The Governments of the Canadian Provinces of Manitoba and Ontario and Spain support the suggestion made by the Office that two separate quotas should be fixed, while the Governments of the State of Western Australia, Belgium, France and Switzerland prefer a single quota.

As regards the maximum amount of overtime, the figures suggested vary. The Governments in favour of two quotas (Canadian Provinces of Manitoba and Ontario, and Spain) propose 100 hours when the hours of work are fixed by national regulations as an average over a period exceeding one week, and 200 hours when the regulations fix hours of work on the basis of the week. Among the Governments in favour of a single quota, the Belgian Government proposes an allowance of 100 hours of overtime when the national regulations fix hours of work on the basis of the week. The French Government, after indicating that its reply is subject to the normal and general application of the 40-hour week system in most industrial States, also proposes an allowance of 100 hours, which would be authorised when the national regulations fix hours of work as an average calculated over a period exceeding one week; for cases where the industry or commerce is seasonal in character, it suggests that the annual allowance might be 150 hours. The Government of the State of Western Australia holds that an allowance of 300 hours should be provided when the national regulations fix hours of work on the basis of a period not exceeding one week. The Swiss Government suggests no specific figures, but considers that the 200 hours proposed in the Questionnaire would hardly suffice if hours of work were reduced to 40 in the week. If the 200 hours' overtime allowance were fully used, the number of hours worked would increase to about 44 in the week, and this Government therefore holds that the overtime quota should be fixed in proportion to the normal weekly hours of work.

All the Governments, even those opposed to limiting the amount of overtime, agree that the competent authority in each country should be authorised to determine, within the limits of the allowances, if any, prescribed by the international regulations, the amount of overtime placed at the disposal of undertakings. They are also in favour of requiring the competent authority to consult the organisations concerned before granting authorisations to work overtime.

#### *Overtime Pay*

All the Governments except that of the Union of South Africa agree that the international regulations should determine the increased rate of pay for overtime, but suggest very different minimum rates.

The Governments of the Union of South Africa suggests no

specific rate, since it considers that the matter is one which should be left to the competent authority.

The Governments of Belgium, the Canadian Province of Ontario, Denmark, France, Switzerland and the United States of America are in favour of a single minimum rate of increase. A time-and-a-quarter rate is proposed by all these Governments, except those of the Canadian Province of Ontario and the United States of America, which propose a minimum rate of time-and-a-half.

The Governments of the State of Western Australia, the Canadian Province of Manitoba, New Zealand and Spain suggest that different minimum rates should be fixed varying according to the occasions on which or the circumstances in which overtime is worked. The Government of the State of Western Australia proposes time-and-a-quarter for work on Saturday afternoons in continuous process work, time-and-a-half for work on Sundays in continuous process work and for the first four hours of ordinary overtime, and double time for work after the first four hours of ordinary overtime and for work on Sundays and public holidays other than continuous process work. The Canadian Provincial Government of Manitoba considers that time-and-a-quarter and time-and-a-half should be fixed according to circumstances, and double time for Sundays and holidays. The Spanish Government suggests time-and-a-half when the overtime is worked during the day and double time for overtime at night. The New Zealand Government is in favour of time-and-a-half for the first three hours of overtime and double time for subsequent hours. It may be remembered that the Governments of New Zealand and the United States of America propose no direct limits for overtime but merely the indirect limitation consisting in a considerable increase of remuneration. They therefore propose that the minimum rate should be time-and-a-half.

Some Governments consider that the payment of increased rates should also be provided in the case of extensions other than overtime proper. Thus, the French, New Zealand and South African Governments suggest that the extensions needed for the preparation of balance-sheets (question 43 (e)) should be authorised on condition that the hours so worked are paid at an increased rate. The Government of the Union of South Africa would even extend the increased pay to the additional hours needed for work which for technical reasons cannot be interrupted at will and for work required to co-ordinate the work of two succeeding shifts [question 43 (c) and (d)]. The United States Government would agree to extensions to make good the unforeseen absence of one or more members of a shift (question 47 (b)) only if paid at overtime rates. The Governments of New Zealand and the Union of South Africa suggest that all extensions in case of accident (question 47) should be paid at overtime rates. Lastly, the Governments of New Zealand, the Union of South Africa and the United States of America consider that the extensions needed in cases of proved lack of skilled workers (question 48) should similarly be regarded as overtime giving the right to increased pay.

## V. — Gradual Application of the Regulations

Questions 62 to 67 (Replies on pp. 67 to 71)

### INDUSTRIAL UNDERTAKINGS, COMMERCIAL ESTABLISHMENTS AND OFFICES IN GENERAL

All the Governments, except that of Spain, consider that it is desirable or admissible that the international regulations should provide for the gradual reduction of hours of work. The French Government states that it prefers the immediate generalisation of the reduction, but is willing to support any measure likely to obtain the necessary majority for the adoption of a Draft Convention.

As regards the maximum length of the transitional period, the position adopted in the various replies shows a diversity of opinion. The maximum of three years suggested in the Questionnaire is approved by the Governments of the State of Western Australia, Belgium, the Canadian Province of Ontario, Denmark, France, the Union of South Africa, and the United States of America. The Government of the Union of South Africa, however, considers that it should be possible to grant exemptions to the rule.

As against these replies in favour of a transitional period of three years, there are replies suggesting a shorter period, from the Canadian Province of Manitoba (one year) and Spain (two years), and the Swiss Government's reply, which considers that a transitional period of six years would not be excessive.

The New Zealand Government holds that it is reasonable to aim at reduction in as short a period as possible, but that a period of three years may be too short in many countries. It therefore suggests that the period should be left to the competent authority in each country to determine, with, however, a recommendation that a specified period should not be exceeded, unless this is impracticable.

The start of the transitional period should coincide, according to all the replies except those from Denmark and New Zealand, with the date of the coming into force of the Convention with respect to each country. The New Zealand Government gives no reply on this question, while the Danish Government expresses the opinion that the start of the transitional period should coincide with the date of the coming into force of the Convention itself.

The general limit of 44 hours for normal hours of work during the transitional period suggested in the Questionnaire is accepted by the Governments of the following countries: the State of Western Australia, Belgium, the Canadian Province of Ontario, Denmark, France, New Zealand, Spain, and the United States of

America. The Government of the State of Western Australia, however, states that exceptions must be provided for, while the New Zealand Government, which considers 44 hours a desirable limit from its point of view, realises that a general adoption of this limit cannot be expected.

The Canadian Provincial Government of Manitoba, on the other hand, proposes a limit of 48 hours.

The replies of the Governments of the Union of South Africa and of Switzerland suggest that hours of work during the transitional period should be fixed on different lines, since they do not approve the principle of the 40-hour week. The Government of the Union of South Africa states that the competent authority should be permitted to reduce hours over the transitional period of three years by one-third each year of the difference between the number of hours which is fixed by the Convention and those prevailing in the particular country. According to the Swiss Government, the reduction should be effected by yearly stages down to a limit of 44 hours a week.

#### SPECIAL CATEGORIES OF UNDERTAKINGS OR OF OCCUPATIONS

The gradual application of the regulations to particular categories of undertakings or of occupations, such as retail and service trades, hotels, restaurants, and similar establishments, curative establishments, and theatres and places of amusement (possibility for the competent authority in each country to fix special weekly limits of hours) is approved by all the Governments except those of New Zealand, Spain, and the United States of America. The New Zealand Government approves the principle of the 40-hour week for all undertakings provided that an established tribunal has power to authorise longer hours for any category of workers or undertakings for which the 40-hour week is impracticable. The Spanish Government is opposed to giving the authority in question, since special limits are already authorised for these undertakings. The United States Government refers to its reply to the question concerning the application of the international regulations to commercial establishments, according to which it is not prepared to take a position at this time with reference to a Convention dealing with hours of work in commerce and offices.

The French Government states that the extensions must not exceed the limits already fixed by the Conventions in force.

The requirement that the competent authority should consult the organisations of employers and workers concerned before determining the limits for hours of work during the transitional period for the categories of undertakings and occupations in question is approved in all the replies except that from the Spanish Government, which is opposed to a transitional period for these undertakings.

## VI. — Special Provisions for Certain Countries

Questions 68 to 77 (Replies on pp. 72 to 80)

In considering the replies to the questions included in this section, it is important to bear in mind the fact that the Governments of the countries in which it is most likely that special provisions on hours of work would be required by reason of the state of their economic development have not replied in detail to the Questionnaire. As a result, specific information is lacking regarding the modifications, if any, which may be required to meet the case of such countries.

Reference must also be made to the fact that the South African Government in the general introduction with which it prefaces its reply referred specifically to the possibility of a regional application of the Convention and indicates that in the absence of provisions of this nature the interest of the Union in the suggested Convention must be largely of an academic rather than of a practical nature.

The Swiss Government abstains from replying to these questions as in its opinion this section does not affect Switzerland. No reference is therefore made to this reply in the consideration of the detailed questions.

### *Territorial Exemptions*

The Governments of the Canadian Provinces of Manitoba and Ontario, Denmark, France, New Zealand, the Union of South Africa and the United States of America consider that the international regulations should include provisions exempting from their application, in the case of certain countries, the areas in respect of which, by reason of the sparseness of their population or the state of their economic development, it is impracticable to create the administrative organisation necessary to secure the effective enforcement of the proposed regulations. The French Government only approves the inclusion of such provisions if it appears that their adoption would be likely to lead to the adoption of the Draft Convention. Similarly, the Spanish Government, though it considers that the general aim should be to avoid special regulations, would agree to their inclusion if by this means the adoption of the Convention can be facilitated, provided that the special provisions apply not to the whole territory of a country but only to certain regions. The United States Government considers that a total exemption from a weekly hours maximum should be permitted only for areas within a ratifying country which are found to present administrative difficulties by reason of the sparseness of population. The Convention should require a finding to this effect by the national competent authority.

On the other hand, the Governments of the State of Western Australia and of Belgium are opposed to the special provisions contemplated by this question.

The Governments of the State of Western Australia, Belgium, the Canadian Province of Ontario, France, New Zealand and the United States of America indicate that there are no areas in their countries in which they consider the international regulations should not apply.

On the other hand, the replies of the Canadian Province of Manitoba, Spain and the Union of South Africa indicate that there are such areas, though they do not specify them, and the Danish Government states that it is not possible to decide in advance that such areas cannot exist in Denmark.

### *Exemption of Small Undertakings and Establishments*

The Governments of the Canadian Provinces of Manitoba and Ontario, Denmark, France, the Union of South Africa and the United States of America consider that the international regulations should include provisions permitting certain countries to exempt from the international regulations, in respect either of the whole or of specified parts of their territory, undertakings or establishments employing a number of workers not exceeding the figure of 20 or such lower figure as may be specified in the relevant national regulations in force at the time of the adoption of the international regulations. The Spanish Government also approves the inclusion of such a provision but only for undertakings employing a number of workers not exceeding 10. The United States Government points out that it is necessary to add some standard to determine the applicability of this question to certain countries or areas and suggests that such a permissive exemption should apply in areas or countries in which, by reason of the sparseness of their population or the stage of their economic development, it is impracticable to develop the administrative organisation necessary to enforce the proposed regulations upon all undertakings.

On the other hand, the Governments of the State of Western Australia, Belgium and New Zealand are opposed to the introduction of such a provision and the French Government only approves of it if it would be likely to lead to the adoption of the Draft Convention.

In the opinion of the Governments of the State of Western Australia, Belgium, the Canadian Province of Ontario, France, New Zealand and the United States of America, the international regulations need not contain a provision on the lines suggested in respect of their territories.

On the other hand, the South African Government considers that such a provision should apply to the whole territory, the Governments of the Canadian Province of Manitoba and of Spain that it should apply only to certain parts, the former adding that these should be determined by location and population. The Danish Government states that it is not possible to decide in advance that such areas cannot exist in Denmark.

*Longer Normal Limits of Hours*

All the Governments, with the exception of the Belgian Government, consider that in the case of countries or parts of them referred to in question 68 the international regulations should contain a provision permitting the competent authority to authorise normal hours of work in excess of those laid down elsewhere in the Draft Convention in the case of all undertakings or establishments or only in the case of certain classes of undertakings or establishments, in the country as a whole or in any specified parts of it.

The French Government only approves the suggestion if it appears likely that its inclusion will be likely to lead to the adoption of the Draft Convention and the Government of the State of Western Australia considers that its use should be limited to cases of genuine difficulty. The United States Government limits the proposed exemption to countries or parts of them where the economic processes are less developed than in other sections of the world. The New Zealand Government adds that the question of the scope of any such exemption should be left to the competent authority.

The South African Government proposes a total exemption in such cases, whereas the Spanish and United States Governments consider that the normal weekly limit of hours of work should be laid down in the international regulations at a limit not exceeding 48.

The Governments of the State of Western Australia, the Canadian Province of Manitoba, Spain, and the Union of South Africa consider that such a provision might apply to their country or a part of it, while the Danish Government cannot reply to this question in advance. On the other hand, such a provision would not be required for Belgium, the Canadian Province of Ontario, France, New Zealand and the United States of America.

As regards the limit of hours to be applied in the countries in which such a provision might be applied, the figure of 48 hours a week is approved in the replies from the State of Western Australia, the Canadian Province of Manitoba and Spain. The South African Government asks for a total exemption, adding that in other words the Convention would not apply.

The Government of the State of Western Australia considers that the exemption should apply to the whole territory of the State, while the Spanish Government states that it should be required for certain regions only. Other Governments give no particulars on this point.

The Governments of the State of Western Australia, the Canadian Province of Manitoba and the Union of South Africa consider that it should be possible to apply these exemptions to all categories of undertakings or establishments. Other Governments do not reply to this question.

*Longer Special Limits of Hours of Work for Certain Categories of Undertakings or Occupations*

The Governments of the Canadian Provinces of Manitoba and Ontario, Denmark, France, Spain and the Union of South Africa

consider that the international regulations should contain a provision permitting the competent authority to authorise special limits of normal weekly hours of work in excess of those suggested in questions 31 to 35 in the case of countries or specified parts of them contemplated in question 68. It will be remembered that questions 31 to 36 relate to the special limits of hours of work applicable to such establishments as those in the retail and service trades, hotels, restaurants and similar establishments, curative establishments, theatres and places of public amusement. The Government of the State of Western Australia is opposed to the inclusion of provisions of this nature in the international regulations, and the French Government only approves of them if this is likely to lead to the adoption of the Draft Convention.

In view of the fact that the United States Government has stated in its reply to question 5 that legislation in the United States at present specifically exempts certain broad classifications of commercial establishments and that the Government is not prepared to take a decision at this time with reference to a Convention dealing with hours of work in commerce and offices, it does not reply to this question.

The Belgian Government, being opposed to the inclusion of special provisions in the Convention, indicates that these questions do not arise, and the New Zealand Government gives no detailed replies to questions 74 to 76.

The Governments of the Canadian Province of Manitoba and the Union of South Africa approve the suggestion that the special limits of normal hours of work applicable in such cases should be determined by regulations issued by the competent authority in each country. The French and Spanish Governments indicate that this limit should be fixed in the international regulations, the Spanish Government proposing that the limit should not exceed 48 hours a week.

The Governments of the Canadian Province of Manitoba, France, Spain and the Union of South Africa agree that, before issuing regulations determining the limits of hours in the cases referred to above, the competent authority should be required to consult the organisations of employers and workers concerned, where such exist.

The other Governments give no particulars regarding the determination of the limits of hours or the procedure to be followed.

The Governments of the State of Western Australia, Belgium, the Canadian Province of Ontario, France and New Zealand indicate that these special provisions need not apply to their country. The Danish Government indicates that it cannot reply in advance to this question.

The South African Government considers that these special limits should be permitted for the whole of its territory, the competent authority being, in effect, free to apply the Convention where possible. The Governments of the Canadian Province of Manitoba and of Spain reply that these provisions should apply only to

certain parts, the former adding that these should be determined by location and population.

The Governments of the Canadian Province of Manitoba, Spain and the Union of South Africa consider that these provisions should apply to all the categories of undertakings or establishments referred to in questions 31 to 36.

## VII. — Special Provisions for Underground Mines other than Coal Mines

Questions 78 to 85 (Replies on pp. 80 to 86)

The Governments of Denmark, New Zealand, Switzerland, and the Union of South Africa did not reply to the part of the Questionnaire dealing with underground mines other than coal mines. The Government of the Union of South Africa is opposed to the inclusion of these mines in the proposed regulations. The Danish Government states that it lacks sufficient experience to give an opinion on the questions, while the Swiss Government points out that mines are not important in Switzerland for the time being, but that it is in favour of the principle of these regulations.

The replies taken into account in the following survey are therefore those received from the Governments of the following countries: the State of Western Australia, Belgium, the Canadian Provinces of Ontario and Manitoba, France, Spain, and the United States of America.

### DEFINITION OF TIME SPENT IN THE MINE

The two definitions suggested for determining the time spent in the mine by workers employed in underground mines (*a*) where access to the mine is by a shaft, (*b*) where access to the mine is by an adit, are approved by the Governments, except that of the United States of America. In its opinion the definition of time spent in the mine should be left to the competent authority, after consultation with the organisations of workers and employers. The French Government holds that the undertakings to be included in the term "underground mines" should be clearly defined. It adds that the French regulations concerning underground mines do not apply to a certain number of underground undertakings, including those for the extraction of bauxite, slate, gypsum, etc.

The Governments, except that of the United States of America, also approve the proposal for the conditions in which the provisions of the international regulations are to be deemed to be complied with when the time spent in the mines is calculated for a group of workers, namely that the period between the time when the first workers of a shift or of any group leave the surface and the

time when they return to the surface should be the same as the time spent in the mine by each worker, provided that the order of and the time required for the descent and the ascent of the shift or of any group of workers is approximately the same. On this point, too, the United States Government considers that the question should be left to the competent authority, after consultation with the organisations of employers and workers concerned.

#### TIME SPENT IN THE MINE

As regards the daily and weekly time spent in the mine by any worker, the Governments favour six different solutions. The Governments of France and the Canadian Province of Ontario are in favour of a daily limit of  $7\frac{3}{4}$  hours and a weekly limit of  $38\frac{3}{4}$  hours. The Spanish Government proposes that the average of  $38\frac{3}{4}$  hours should be adopted. The Government of the State of Western Australia suggests that the limit should be 7 hours 12 minutes per shift from Monday to Friday inclusive and 4 hours on Saturday. According to the United States Government, the time spent in the mine should be 8 hours per day and 40 hours per week. The Canadian Provincial Government of Manitoba suggests that the time spent in the mine should be 40 hours per week on the average, calculated over a fixed period consisting of a certain number of weeks of six days and a certain number of weeks of five days, the daily limit not to exceed 8 hours. The Belgian Government suggests a slightly different arrangement: the 40-hour week might be calculated over a fixed period consisting of a certain number of weeks of six days and a certain number of weeks of less than six days, the daily time not to exceed 8 hours.

In the opinion of the Canadian Provincial Government of Manitoba, the period over which the average should be calculated should be one year, and in that of the Spanish Government it should be six weeks of six days and five days. According to the Belgian Government, it should be fixed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

#### TRANSITIONAL PERIOD

The suggestions concerning the determination of the daily and weekly time spent in the mine during the transitional period contained in the replies are equally varied. The Canadian Provincial Government of Manitoba proposes a weekly limit of 44 hours, worked by means of eleven shifts in the fortnight, while the Government of the State of Western Australia suggests that the weekly 44 hours should be divided into six shifts of 7 hours, 20 minutes in the week. In the opinion of the French Government, a transitional period should be contemplated, but it is not possible

to fix it uniformly for all the mines concerned. This Government considers that the mines should be divided into categories, and that a preliminary problem to be solved is therefore the determination of these categories according to the nature of the substance extracted or the conditions of working. For mines where the conditions of work are similar to those of French mines, it might be possible to consider a weekly limit of 42 hours 37 minutes (eleven shifts in the fortnight of 7½ hours). The Spanish Government prefers the system of 42 hours a week during the transitional period, worked by means of eleven shifts in the fortnight of 7 hours 38 minutes each (six shifts in one week and five in the next). The Belgian Government proposes an average of 42 hours, the details being fixed by the competent authority after consultation with the employers' and workers' organisations concerned. The Canadian Provincial Government of Ontario expresses no preference for a particular system. The United States Government holds that the method of applying transitional regulations should be left to the competent authority, after consultation with the workers' and employers' representatives.

All the replies, except that of the French Government, agree that the determination of the classes of mines or mining districts in respect of which one or other of the transitional schemes considered should apply, and the choice of the scheme to be applied, should be left to the competent authority.

#### NECESSARILY CONTINUOUS OPERATIONS

All the replies are agreed in considering that the length of the shift of each worker employed on operations which must be carried on continuously may be extended to 8 hours per day, exclusive of the time spent in the mine by that worker in reaching and returning from his place of work, it being understood that in each case this time will be reduced to the indispensable minimum.

#### OVERTIME

In the opinion of the Governments of the State of Western Australia, Belgium, and Spain, the working of overtime should be limited under the same conditions as for coal mines (other than lignite mines), whereas the Governments of the Canadian Provinces of Ontario and Manitoba and the United States of America propose that, as regards overtime, mines other than coal mines should not be distinguished from other undertakings covered by the general regulations for the reduction of hours of work in industry, commerce and offices.

The French Government considers that special overtime conditions should apply in these mines, conditions which need not necessarily be the same as those for coal mines or those for other undertakings covered by the general regulations.

## VIII. — Suspension of the Application of the Regulations

Questions 86 to 88 (Replies on pp. 86 to 88)

All the Governments consider it necessary to provide that the operation of the international regulations may be suspended, in case of necessity, for meeting the requirements of national safety.

Similarly, all the Governments except those of Belgium and the United States of America are in favour of suspending the regulations to ensure the working of the service of a public utility. The Belgian Government considers the question too vaguely drafted to be able to reply. The United States Government objects to the suggested suspension.

The Governments of the Canadian Provinces of Manitoba and Ontario, Denmark, France, Spain, Switzerland and the Union of South Africa hold that the regulations may be suspended, in case of necessity, for the protection of the national economic system. The French Government, however, only agrees provided the formula suggested is made quite clear. The Government of the State of Western Australia did not reply to this question. The United States Government holds that no permission in these terms is necessary, but that if the Convention contains a provision for the suspension of its operation to meet the requirements of national safety, then any suspension of one ratifying nation might be considered by each other ratifying nation in relation to the requirements of its own national safety and national economic system. The Belgian Government objects to the suspension unless grave circumstances endanger the national economic system.

There is complete unanimity as to the need of providing that the International Labour Office should immediately be notified of the suspension of the regulations in the cases mentioned above, an indication being given of the reasons which have led to such suspension.

## IX. — Safeguarding Clause

Question 89 (Replies on pp. 88 to 90)

All the Governments are in favour of including a safeguarding clause in the international regulations.

Similarly, all the Governments, except those of France and Switzerland, accept the formula suggested in the Questionnaire, to the effect that, in accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in the international regulations shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions for the workers than those provided for in such regulations.

The French Government asks that the safeguarding clause should be worded as in Article 19, paragraph 11, of the Constitution of the International Labour Organisation.

The Swiss Government, while agreeing to the principle that a safeguarding clause should be included, points out that cases might arise in which the national legislature might see fit to deal with matters hitherto settled exclusively by agreement between employers and workers: in such cases the public interest would take precedence over private interests and the international safeguarding clause could not apply; it goes without saying, however, that the national legislature would not unnecessarily worsen an existing situation.

## X. — Supervision of the Application

Questions 90 and 91 (Replies on pp. 90 to 92)

The Office asked Governments if they wished to provide in the international regulations that the employer should be required to notify, by the posting of notices or otherwise, the hours at which work begins and ends, the hours at which each shift begins and ends, the description of any rotation system, including a time-table for each person or group of persons, the arrangements made in cases where the average duration of the working week is calculated over a period exceeding one week or where lost time is made up, and the rest periods which are not reckoned as part of the working hours.

All the Governments, except those of the Union of South Africa and the United States of America, are in favour of the various measures of supervision mentioned above.

The United States Government and the Government of the Union of South Africa, which object to the principle of making up time lost through collective stoppages of work, naturally do not contemplate any measure for the supervision of such cases. The latter Government is also opposed to any special supervision of rotation systems or of rest periods which are not reckoned as part of the working hours.

On the other hand, the French Government, which agrees to all the measures mentioned in the Questionnaire, adds that where work is organised in successive shifts, the head of the undertaking should notify, by the posting of notices or in any other manner approved by the competent authority, a list of the workers employed in each shift; where recourse is had to overtime for which a notification or permit is required, a copy of the notice or permit should be posted in the premises where the overtime is worked.

The Governments unanimously agree that the employer should be required to keep a record in which all additional hours worked in the cases mentioned in questions 48 to 61 shall be entered, together with the payments made in respect thereof.

## XI. — Annual Reports

Questions 92 and 93 (Replies on pp. 92 to 94)

All the Governments agree that the international regulations should contain the indication mentioned in the Questionnaire of the information to be given in the annual reports presented in accordance with Article 22 of the Constitution of the International Labour Organisation on the measures taken for the control of the application of the international regulations.

The French Government considers that the annual reports should also contain information on the results of the measures taken to regulate hours of work, and in particular statistics of recorded contraventions.

## CHAPTER III

### CONCLUSIONS<sup>1</sup>

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#### A. — *GENERAL CONCLUSIONS*

##### I. — **Results of the Consultation of Governments**

Out of 56 Governments consulted, 25 had sent a reply to the Office by 1 March 1939<sup>2</sup>.

Sixteen Governments merely indicated their general attitude towards the reduction of hours of work, and only nine Governments replied in detail to the Questionnaire.

It is not always easy to classify these replies according to the position adopted by the Governments, for many of them set out their views subject to a number of qualifications and reservations. A careful study of the replies, however, suggests the following conclusions:

Nine Governments are opposed to any international regulations which would fix the normal hours of work in industry and commerce at 40 hours or 44 hours, or in general at a figure of less than 48 hours in the week.

Nine Governments are not opposed to the idea of the reduction of hours of work, but declare that so far as they are concerned they cannot at present undertake to ratify an international Convention for the reduction of weekly hours of work in industry and commerce to less than 48.

Seven Governments expressly declare themselves in favour of the reduction of normal hours of work to 40 in the week. These are the Governments of Belgium, Denmark, France, New Zealand, Norway, Spain and the United States of America.

It is noteworthy that the many Governments which do not accept a reduction of the working week to 40 hours make no counter-proposals on the basis of a figure somewhere between 40 and 48 hours, apart from the Swiss Government, which, without

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<sup>1</sup> This chapter was written during the first week of March.

<sup>2</sup> In Chapter III account is taken not only of the replies mentioned in Chapters I and II, but also of the replies which were received by the Office between 1 February and 1 March from the Governments of the following countries: Australia, China, Lithuania, Norway, Yugoslavia.

assuming any definite obligation, suggests that international regulations might be contemplated on the basis of a normal week of 44 hours.

However this may be, the result of the consultation of Governments is definitely unfavourable and affords no prospect of the adoption by the Conference at its session next June of one or more Conventions on the basis of a normal working week of 40 hours or of 44 hours, even though provision were to be made for gradual reduction over a considerable transitional period.

The grounds given for the attitude of opposition or abstention adopted may be briefly reviewed.

*Objections to the method of international regulation.* — The reduction of hours of work, it is argued, cannot be general and cover the whole of industry and commerce. It will be preferable to proceed by industries or even by branches of economic activity or by occupations, and to begin with exhausting or unhealthy occupations, or with undertakings or classes of undertakings in which mechanisation and the speeding up of work have been carried particularly far.

*Economic and commercial objections.* — The economic effects of a general reduction of hours of work are not sufficiently known and cannot be exactly determined; further study and enquiry are necessary.

The reduction of hours of work would increase costs of production, lead to a lowering of consumption and worsen the national economic situation.

The reduction of hours of work might perhaps be borne by a State in which industry is old-established, powerful and well-equipped, but it would operate to the disadvantage of the industry of young States with little capital which have not been able to obtain sufficient equipment and are not yet in a position to apply modern technical methods in full.

Lastly, the proposed international regulations would not be applied by all States; they would certainly not be applied by the large industrial States which are not Members of the International Labour Organisation, and which would thus be placed in a position of marked superiority in the arena of international commercial competition.

*Social objections.* — Considered as a method of distributing available employment among all workers, the reduction of hours of work is of small interest to States where there is little or no unemployment, and must be regarded even less favourably by States where there is a shortage of labour, in particular of skilled labour.

Further, in many countries the reduction of hours of work would lead to a corresponding reduction of earnings, and the result would be a falling off in the purchasing power of the mass of workers, which would lead to reduced business and would tend to produce unemployment.

Lastly, a certain number of countries state that they have recently reduced the working week to 48 hours, that they must concentrate their efforts on a fuller application of their new legislation, and that it would be premature for them to contemplate a further reduction in the near future.

None of these arguments makes any really fresh contribution to the discussion. They show rather that for five or six years controversy has continued in the different countries on the same basis and turning around the same points.

The movement for the reduction of hours of work appears to have suffered, if not a setback, then at least a suspension that the considerations briefly summarised above do not fully explain, since many Governments give the grounds for their attitude with evident reserve.

It therefore seems desirable to consider the history of events and opinions in recent years in order to try to find an explanation of the new situation with which the Conference will be faced.

## II. — Course of Events and Opinion in Recent Years

A number of factors—economic, social and even political—have influenced the movement for reducing hours of work to less than 48 in the week. They include fluctuations in production, the increase or decrease in employment and unemployment, the extension of the tendency towards economic self-sufficiency, international diplomatic tension, and the intensification of armament programmes.

If these various factors are taken into account and the essential features of world evolution are roughly summarised, the fluctuations in the movement for the reduction of hours of work may be divided into three main periods; the first from the end of 1929 to the end of 1932, the second from the beginning of 1933 to the middle of 1937, and the third, which is still in progress.

*First period.* — Towards the end of 1929 an economic depression began in the United States and spread very rapidly to most countries, deepening steadily until the end of 1932. Production fell heavily, employment diminished, and the number of unemployed increased very rapidly; by the end of 1932 it could be estimated at no less than 30 million.

As soon as the growth of unemployment was seen to be general and lasting, the workers' organisations raised the question of the reduction of hours of work and of the distribution of available employment among all workers needing to earn their living.

Efforts were directed in the first place towards reducing or suspending recourse to overtime. Very often the departments responsible for supervising the observance of hours of work legislation were invited by Governments to limit strictly the granting of overtime permits to cases in which the economic or technical

needs of the undertaking prevented the engagement of available labour. In some countries the national laws or regulations were amended with a view to prohibiting the working of overtime in periods of severe unemployment.

Very soon, however, it was realised that overtime could not be radically abolished and that the results obtained by recourse to this method, even on an extensive scale, remained insufficient to produce a substantial reduction of unemployment.

At this point the idea of reducing normal hours of work came to the fore and crystallised around the demand for a normal week of 40 hours.

Employers, being concerned both for the fate of their workers and the obvious interests of their undertakings, which was to retain their skilled labour force with a view to a future economic revival, introduced short time as a temporary measure. In the United States, Italy and France various employers' organisations declared themselves in favour of the general adoption of this method. In the United States, in particular, the employers' Share-the-Work Movement, which started in 1932, produced appreciable results.

The public authorities for their part took important steps in certain countries. They introduced the 40-hour week in the services run by them or made it compulsory for undertakings carrying out public works or receiving subsidies from public bodies.

In some countries the authorities went even further and adopted laws or regulations of a more or less general scope. In Germany, in 1931 and 1932, Decrees were issued empowering the Government to promote the reduction of hours of work to 40 in the week in different branches of activity, and the organisation of systems of rotation; bonuses were offered to employers who undertook to engage additional workers and salaried employees; they were even authorised to reduce wage rates in a specified proportion. In Poland, in October 1931, Parliament passed an Act making it possible for the Government in periods of depression to reduce hours of work with a view to spreading employment over as many workers as possible.

All these measures, whether taken on the initiative of employers or of Governments, were considered as temporary means of meeting an exceptional situation which it was hoped would also be temporary.

*Second period.* — At the beginning of 1933 the economic situation began to change in several countries. Production started to revive, employment to increase, and unemployment to diminish. In some countries the maximum production figures of 1929 were reached fairly soon, between 1933 and the beginning of 1937.

But even in countries where the revival was most marked the employment index rose less rapidly than the production index, and there remained a considerable volume of unemployment, greater than the unemployment of 1929 for equivalent figures of production.

This somewhat peculiar situation struck many persons. Economists, industrial organisation experts, and in particular the representatives of a number of workers' organisations maintained that this unemployment, which persisted notwithstanding a considerable improvement in the figures of production, was one of the permanent features of modern industrial organisation. The machine, they said, was tending to replace the man. Mechanisation, rationalisation, and in a general way the more extensive application of scientific management methods, were tending to increase the productivity of labour.

At the same time other considerations were mentioned, based on the increasingly rapid pace of the work done in factories and workshops. Labour, it was said, was being more and more linked up with the use of increasingly perfected machinery which had become more and more automatic. Many machine tools required the workers only to perform a small number of movements, always the same, but carried out with increasing rapidity. The use of conveyor systems was becoming more general. Muscular effort was less, but the acceleration and monotony of the movements required of the worker was leading to nervous depressions or caused premature nervous exhaustion.

On the ground both of the persistence of unemployment in a period of economic revival and of the increased speeding-up of work, the workers' organisations concluded that normal hours of work must be reduced in order to absorb the unemployed, to give the workers the longer rest periods they needed, and to enable them in this way to enjoy their fair share of the benefits of modern technical progress.

These conclusions and arguments had their effect on Parliaments and public authorities, and it was during this period, from 1933 to 1937, that some countries adopted and put into force general regulations concerning the 40-hour week.

In May 1933 the United States passed the National Industrial Recovery Act, under which codes of fair competition approved by the National Recovery Administration were to prescribe among other things the hours of work to be observed in each industry. These codes established a week of 40 hours or even less in all classes of industrial undertakings and in several classes of commercial establishments, at the same time as they prescribed minimum rates of wages for the purpose of increasing the workers' purchasing power.

In October 1934 the Italian central trade organisations concluded a general agreement for the reduction of hours of work in industry to 40 in the week wherever this might lead to the creation of new employment. Wages were reduced in proportion to hours, but certain allowances were made to workers with family responsibilities. This agreement was made permanent in 1935.

In June 1936 France established by law the principle of the limitation of hours of work to 40 in the week in industrial and commercial undertakings, and to 38 hours 40 minutes in under-

ground mines, while stipulating that the reduction of hours should in no case be a determining reason justifying a reduction of wages. The methods of applying the Act were prescribed in a series of Decrees issued for particular industries.

In June 1936 New Zealand fixed the statutory working week at 40 hours in factories and undertakings covered by the awards of the Court of Arbitration. The Court was empowered to authorise longer hours in cases where it considered that the 40-hour week was impracticable. Overtime was limited only for women and young persons, but had always to be paid at not less than time-and-a-half rates.

In July 1936 Belgium passed an Act empowering the Crown, on the proposal of the Council of Ministers, to reduce the hours of actual work gradually to 40 in the week for workers engaged in industrial undertakings or parts of undertakings where work was carried out in unhealthy, dangerous or exhausting conditions. Use was made of this provision, among other things, for underground work in mines (45-hour week), ship repairing in the Port of Antwerp (42-hour week) and loading and unloading work in ports (40 to 42-hour week).

It may be added that the U.S.S.R., which had decided in 1927 on the gradual introduction of the 7-hour day without a reduction of wages in certain branches of industry, issued an Order in January 1929 establishing the 6-day week (5 working days and one rest day), the normal working day remaining fixed at 7 hours.

The general features of the period 1933-1937, as roughly outlined above, were not to be observed in all their details in every country.

In countries where unemployment had fallen substantially the 8-hour day and 48-hour week were retained as the normal working time; sometimes even, with the improvement in production indices, there was a tendency to a general return to the use of overtime.

In some countries, even though there may have been no marked change in the national laws or regulations, actual hours of work sometimes increased markedly under the influence of a factor that was soon to acquire substantial importance. This factor was the rearmament which led to considerable increases in hours of work in the industries working for national defence.

*Third period.* — Towards the middle of 1937, according to the schedule outlined here, a new period set in, of an even more complex character than the preceding periods.

In many countries economic tendencies have been reversed. Production indices are falling, employment is diminishing and unemployment increasing. In other countries production, employment and unemployment are becoming stabilised. In yet others production continues to improve, employment to increase and unemployment to diminish, and it even happens that a number of undertakings are unable to recruit the skilled workers they need and consequently these countries have to undertake a sort of mobilisation of labour.

In the countries where unemployment is increasing, at least, it might be expected that the movement in favour of the reduction of hours of work would revive, but it cannot be said that this is at all generally so, even in these countries. Only a few new regulations have been adopted for reducing hours of work to less than 48 in the week, and they relate to a few countries only.

In Italy a Legislative Decree of May 1937 established by law the 40-hour week for industry, as introduced by the general agreement of 1934; it authorised extensive use of overtime (2 hours a day and 12 hours a week) whenever the employer is unable to engage the additional labour he requires.

In June 1938 in the United States the efforts which had been made since the Supreme Court declared the National Industrial Recovery Act unconstitutional led to the adoption of an Act limiting the working week to 44 hours during the first year of enforcement of the Act, to 42 hours during the second year, and to 40 hours from the third year onwards, in industries manufacturing goods for interstate commerce.

In Luxemburg a Decree of October 1938, on the Belgian model, introduced a procedure for the reduction of hours of work by stages to 40 in the week in dangerous and unhealthy industries. This Decree has not yet been applied in practice.

The tendency to have recourse to overtime, which made itself felt in the preceding period, is becoming stronger in several countries and has sometimes even led to the amendment of national regulations.

In France, Legislative Decrees issued in the autumn of 1938 introduced into the Decrees on the application of the 40-hour week provisions permitting additional overtime allowances, payable at a rate increased by 10 or 15 per cent. over the normal rate of wages, the minimum rate of 25 per cent. being in principle applicable only when the actual hours of work exceed 48 in the week.

The increase of actual hours of work is particularly marked in certain countries such as Germany and Japan. In Germany the legislation on hours was made more flexible in April 1938, in order to allow of the working of a considerable amount of overtime to meet the needs of national defence, satisfy foreign orders, permit the introduction of new machinery and the use of new materials, and in a general way promote the carrying out of the Four Year Plan. Extensions of hours have even become so regular that the responsible departments recently considered it expedient to remind undertakings that the 8-hour day allows of an optimum output, and that there are physical and psychological limits to the useful extension of hours of work.

In Japan hours of work have increased so considerably in order to meet war needs that the Ministry of Social Affairs is trying to get the working day reduced to 12 hours, including overtime, so as to prevent a fall in output.

In Italy, since October 1936, the Head of the Government has empowered the General Munitions Commissariat, which controls

about 1,200 industrial undertakings, to authorise the extension of the working week to 60 hours for manufacture for the Air Force and the Navy in particular.

Thus, considerations of national defence, the growing scale of armament programmes, and their increasingly rapid execution, are making themselves felt more and more, leading in an increasing number of countries in most parts of the world to an effective and very marked extension of hours of work.

Faced with the argument of national defence, it is difficult for the workers' organisations to oppose an extension of hours, but they demand that the extension should be applied only if really necessary in the interests of national defence, if the absorption of the unemployed is in practice impossible, or if there is in fact a shortage of labour.

### III. — Expediency of Postponing International Discussion on the Reduction of Hours of Work in Industry and Commerce

The above review of the results of the consultation of Governments and of the course of events and opinion in recent years clearly shows that the movement in favour of the reduction of hours of work in industry and commerce to less than 48 in the week has been held up or even suffered a setback in many countries, and has lost much of its vigour in others.

The cause of this new situation must certainly be sought in the political and economic conditions that at present prevail in a large part of the world. Between many States diplomatic relations are strained and economic relations far from normal. Armament programmes are swelling year by year, absorbing a growing proportion of the national income, while at the same time the resources for the development of social services are lacking.

In this state of political insecurity and economic instability Governments are clearly little inclined to assume an international obligation, even of short duration, to reduce hours of work in industry and commerce to less than 48 in the week. It is obvious that they wish to remain free to modify at once and at any time the speed of their production and the system of work in factories and workshops, in order to be able to meet any obligations that may be suddenly imposed by the requirements of national military and economic defence.

The International Labour Organisation cannot ignore the present situation or the causes that have led to it, and it must realise that there is little hope of obtaining the adoption at the forthcoming session of the Conference of international regulations for reducing the normal working week in industry and commerce to 40 or even 44 hours, even though the regulations were to provide for extreme flexibility and a long transitional period.

The Office is accordingly of the opinion that, unless there is a very marked change for the better in the situation during the next months, the Conference would do well to postpone the discussion on the generalisation of the reduction of hours of work in industry and commerce and to refer the question back to the Governing Body with a request to enter it again on the agenda when the prospects of success are better.

This proposal for postponement does not imply that the question will be abandoned. The present situation is altogether exceptional and cannot be other than temporary. In every quarter steps are being taken to initiate negotiations that would lead to a relief of diplomatic tension, a limitation and even a reduction of armaments, and an improvement in the economic relations between States. The Office is convinced that these efforts will yield positive results and that it will be possible to build up a genuine political and economic peace without too much delay.

When that happens the problem of reducing hours of work to less than 48 in the week will be found to have lost none of its importance, and it will have to be examined internationally in all its aspects.

It is for the Conference itself to take a decision in June next, and while the Office believes that postponement may perhaps be found expedient, its consideration for the freedom of action of the Conference has led it to prepare two proposed Draft Conventions as a technical basis for any discussion that may take place.

## B. — *COMMENTARY*

Owing to the small number of detailed replies received from Governments, the Office has found it impossible to abide strictly by the usual method of preparing proposed Draft Conventions and the commentaries thereon.

In the present case, its object has been not so much to propose a text that will be in full conformity with the few replies received as to select the methods that an attentive study of national laws and regulations suggests will be the best.

## I. — *Form of the Regulations*

### INDUSTRY, COMMERCE AND OFFICES

The Office submits to the Conference two separate proposed Draft Conventions, one for industry and the other for commerce and offices. It considers that there are several reasons in favour of

this method as against the preparation of a single Convention.

In the first place, the legislation limiting hours of work in industry has reached a more advanced stage than that limiting hours in commerce. Countries where that is the case would, therefore, be unable to ratify a single Convention, covering both industry and commerce, until they had carried out a considerable and probably lengthy process of legislation, which it is not certain that all of them are prepared to undertake in the near future in regard to commercial establishments.

Secondly, the regulations for commerce should be more flexible than those for industry, partly on account of the special provision that must be made for particular classes of establishments, such as retail shops, hotels and restaurants, hospitals and nursing homes, theatres and places of public amusement, etc. It follows that a common Convention for industry and commerce would have to contain different detailed provisions as to scope and the limits of hours of work for several categories of establishments, and this would have the drawback of rendering the proposed Convention less clear and homogeneous.

It may be added that this was also the reason why, when it was a case of reducing the working week to 48 hours, the international regulations dealt separately with the reduction in industry and in commerce and offices.

## II. — Scope

### PERSONS AND UNDERTAKINGS COVERED

#### *Industry*

#### ARTICLE 1

The scope is defined by enumeration, as was already done for the Hours of Work (Industry) Convention.

It is proposed that the Convention should apply to "all manual and non-manual workers, including apprentices". This formula is a new one, for hitherto the various hours of work Conventions have applied to "persons employed". The proposed term has the advantage of greater precision. Among other things, it prevents any ambiguity of interpretation as to the inclusion of apprentices.

The manual and non-manual workers, including apprentices, covered are to be those employed in the undertakings enumerated. It should be added that the enumeration suggested is by no means exhaustive. It merely gives sufficiently detailed indications to make the meaning of the term "industrial" clear. To this end, it mentions five classes of undertakings.

*Undertakings in manufacturing industry, or for the production and distribution of motive power, water, gas and heat*

The proposed clause is essentially the same as that in Convention No. 1 but supplemented by the inclusion of undertakings for the distribution of water, gas and heat.

*Building and contracting undertakings*

The enumeration proposed is that put forward in 1935 in the proposed Draft Convention concerning the reduction of hours of work in building and contracting which was approved by the Committee on the Reduction of Hours of Work of the Nineteenth Session of the Conference. The clause in question merely repeats the corresponding text of Convention No. 1, with certain minor changes to allow for technical progress during the last twenty years.

*Undertakings in the mining industry*

The third class of undertakings comprises those engaged in the extraction of minerals, excluding coal (and lignite) mines, for which there is a separate Draft Convention dealing with the reduction of hours of work.

*Transport services of industrial undertakings and industrial services of transport undertakings*

In view of the fact that the regulation of hours of work in the transport industry raises special problems calling for separate solution, the International Labour Conference decided, at its Twenty-fourth Session, to consider the adoption of separate international regulations for this industry. It was agreed, however, that the general regulations on hours of work should cover:

- (1) the transport services of industrial undertakings;
- (2) the industrial services of transport undertakings.

The transport services of industrial undertakings, the latter being defined as indicated above, should be covered by the Convention, on condition that they are used only to meet the requirements of such undertakings, are not open to public traffic, and do not operate on a public road, railway or inland waterway.

With such a clause, the Convention will cover, for example, the internal railways of mines and factories, the haulage undertaken within industrial undertakings or on the private roads owned by them or on private canals, etc. On the other hand, as soon as the vehicles of an industrial undertaking—motor cars, motor lorries, railways, trailers or barges—make use of public roads, railways or inland waterways, they should be covered by the special regulations for the transport industry.

Similarly, the general regulations should cover the parts or services of transport undertakings which have no direct connection with the operation of the transport services themselves, on condition that these parts or services are of an industrial character similar to that of the undertakings belonging to the classes mentioned above.

It follows that, if a transport undertaking—say, a company operating motor-bus services—possesses plant forming in fact an independent undertaking, such as a workshop for the assembly and repair of vehicles, then that undertaking should be subject to the international regulations considered here. On the other hand, the staff engaged in the transport services themselves would be covered by separate international regulations—in the present case, the regulations concerning the "hours of work and rest periods of professional drivers (and their assistants) of vehicles engaged in road transport", which are also being submitted to this Session of the Conference.

#### *Border-line cases*

Cases may arise in which there may be doubt as to whether an undertaking or a service or part of an undertaking should be subject to the Convention concerning hours of work in industry. Such cases may be found, for example, in undertakings of a mixed character, some of whose activities belong to industry and others to agriculture or coal mining or commerce. The question whether the undertaking is subject to the Convention should then be settled by the competent authority.

### *Commerce and Offices*

#### ARTICLE 1

As regards commercial establishments and offices, Governments were consulted on the inclusion of specified classes of establishments namely:

- (1) commercial establishments proper;
- (2) establishments and administrative services in which the persons employed are mainly engaged in office work;
- (3) establishments for the care of the sick, etc.;
- (4) hotels, restaurants, cafés, etc.;
- (5) theatres and places of public amusement.

In addition, the Questionnaire considered the possibility of including certain mixed establishments or parts of establishments, namely:

- (1) mixed commercial and industrial establishments, unless they are deemed to be industrial undertakings;
- (2) the commercial services of all non-commercial undertakings;

- (3) the transport services of commercial establishments and the parts or services having a commercial character of transport undertakings.

It is proposed that Article 1 should cover these different classes of establishment. It provides in two separate paragraphs first for the definition and enumeration of the classes of establishments to be deemed to be commercial establishments or offices for the purposes of the proposed regulations, and secondly for the determination of the regulations which are to cover establishments or parts of establishments of a mixed nature, namely those which can be classed either with commercial establishments and offices or with undertakings engaged in industry, mining or transport.

### *Commercial establishments and offices*

In the Grey Report on the generalisation of the reduction of hours of work, the Office had explained that, while it was not possible to consider the adoption of a general formula covering all industrial and commercial undertakings and offices, "the scope of the regulations must be determined as precisely as possible, so as to prevent any risk of varying national interpretations of the scope of such terms as 'industrial undertakings', 'commercial establishments', and 'offices'". The necessary details have been suggested in the case of industrial undertakings, in the form of a clause practically identical with that first employed in 1919 in Convention No. 1. What is needed now is a clause with similar details for the definition of commercial establishments and offices.

The expressions "commercial establishments" and "offices" must cover establishments engaging in a great variety of activities—wholesale, semi-wholesale, and retail firms dealing in goods of all kinds; establishments providing personal services such as hair-dressers' shops, baths and massage establishments; banking and credit institutions, savings banks, etc.; insurance firms, travel agencies, advertising agencies, and other business agencies in general; publishing firms; lawyers' offices; etc. The expressions in question must be defined widely enough to cover all the classes of establishments mentioned above and narrowly enough to apply only to these classes without including industrial undertakings proper. The proposed definition satisfies this twofold condition: (1) it enumerates the various forms of activity that are characteristic of commercial establishments and offices: sale, distribution, negotiation, loan, or administration of goods or services of any kind; (2) it stipulates that the establishment should engage wholly or mainly in these forms of activity.

### *Establishments for the care of the sick; hotels, restaurants, etc.; theatres and places of public amusement*

While it might be objected that the expressions "commercial establishments" and "offices" are such as to cover the above-

mentioned classes of entertainments if necessary, yet, for the sake of clarity, it is desirable to mention them separately.

### *Border-line cases*

*Mixed establishments.* — Paragraph 2 (a) of Article 1 of the proposed Draft Convention considers the case of mixed commercial and industrial establishments. The reason is that in actual practice establishments can be found whose activities are in part similar to those of the establishments dealt with in this Draft, but in part to those of industrial, mining, or transport undertakings.

It is proposed that the regulations concerning commerce and offices should cover all establishments of this kind, unless they are subject to regulations for hours of work in industry, mining, or transport.

*Parts of industrial establishments of a commercial character.* — The same paragraph 2 (b) of Article 1 also proposes that the regulations on commerce and offices should cover the parts of establishments engaged in industry, mining, or transport which, if they were independent undertakings, would be subject to the said regulations. The reason for this provision is that there are industrial, mining, and transport undertakings which own offices, hospitals, hotels, restaurants, or recreation institutions of considerable importance, forming, in fact, separate units. In such cases the regulation of the conditions of employment in the parts of establishments in question ought to be made the same as those applicable to independent offices, hospitals, hotels, restaurants, and recreation institutions.

*Transport services.* — Paragraph 2 (c) is identical with paragraph (d) of Article 1 of the proposed Draft Convention concerning industrial undertakings, and there will be no need to repeat the commentary thereon here.

## UNDERTAKINGS EXEMPTED

### *Industry*

#### ARTICLE 2

##### *Family undertakings*

This exemption appears in most laws and regulations concerning hours of work. Family undertakings find it difficult to adjust themselves to the hours of work fixed for industry in general. Moreover, the supervision of the observance of hours of work regulations in family workshops meets with difficulties and in many cases raises certain delicate problems, especially if the means at the disposal of labour inspection services are taken into account.

For these reasons, the various hours of work Conventions have accepted the principle of the exemption of undertakings where only members of the employer's family are employed. In the most recent Conventions, for example the 1937 Convention for the textile industry, the right to exempt these undertakings is left to the

discretion of the competent national authority, after consultation with the organisations of employers and workers concerned. It is proposed that this method should be adopted here.

It is not considered desirable to define more exactly the term "family undertakings" by limiting the interpretation to be given to the expression "members of the employer's family", for the rules followed in this respect by the various national laws and regulations are not uniform. In some countries, the exemption applies only to the head of the undertaking, his wife and children under age, while in others it may extend to comparatively distant relatives.

### *Small undertakings*

A large number of laws and regulations provide for the exemption either of all small undertakings or of certain classes of such undertakings. The grounds for this exemption are, to some extent, the same as those on which the exemption of family undertakings is based. Further, the reduction of hours of work may entail serious problems of organisation for the undertaking. If a small employer has to engage additional staff in order to make up for a reduction in hours, he may find that he has neither enough room to equip new workplaces in his small premises nor enough work to give full occupation to the additional labour engaged.

Whatever the value of the arguments that might be put forward against the exclusion of small undertakings, it seems that the attitude adopted on this question in many national laws and regulations would justify the optional exemption of small undertakings. The criterion for exemption may be either the number of persons employed or the economic importance of the undertaking. As it is very difficult to find an economic standard that can be universally accepted by all classes of industrial activity, it is preferable to keep to the criterion of the number of workers employed and to adopt the maximum limit of six workers suggested by the Office in the Grey Report.

### *First processing of agricultural products, etc.*

Certain undertakings for the processing of agricultural products, dairy products, meat, poultry and fish are seen to be clearly industrial in character, if all the departments composing them are taken together. Nevertheless, if the parts of the undertakings in which the first processing of these products takes place were to form independent establishments, these would be deemed to belong to agriculture, stock-raising or fishing, as the case may be. Among operations of this kind, reference may be made to the skimming of milk in dairy undertakings, the picking over of fruit and vegetables in preserving factories and the ginning of cotton in the textile industry.

It seems logical to exclude from regulations intended specially for industrial undertakings those undertakings which are engaged

wholly or mainly in operations that are not in the least industrial. The problem that arises here is, in fact, one of drawing a line of division between industry on the one hand and agriculture, stock-raising and fishing on the other. It may be remembered that a similar problem arose in regard to the scope of the Reduction of Hours of Work (Textiles) Convention, and that the starting point for industrial operations proper had to be very carefully determined.

The operations for which exemption may suitably be allowed ordinarily relate to highly perishable goods. Many of them are seasonal in character, being undertaken only at the harvest, during the fishing season, etc. Lastly, in many cases they affect only a small proportion of the workers in the industry in question.

### *Health and welfare services of undertakings*

Industrial undertakings are devoting more and more attention to their health and welfare services: sick-rooms, hospitals, nursing homes, crèches, technical schools, canteens, hostels, sports grounds, etc. When such services reach a more considerable scale, they form separate units in which conditions of employment are very different from those prevailing in the industrial undertaking proper.

It therefore seems reasonable to leave it to the competent authority to decide whether such health and welfare services should be subject to the regulations for industrial undertakings or whether they should be exempted.

## *Commerce and Offices*

### ARTICLE 2

#### *Family establishments*

This exemption is the same as that provided for in Article 2 of the proposed Draft Convention concerning industrial undertakings. It calls for no additional comments.

#### *Departments or establishments operated by a public authority*

In the departments or establishments operated directly by the State or a public authority, the staff usually enjoys a special legal status, under which it is subject to special rules as regards hours of work. Since the public authorities desire to regulate the conditions of work of officials directly, many laws and regulations on hours of work exempt public employees from their application. This is a situation that must be taken into account in any international regulations.

The 1930 Convention concerning hours of work in commerce and offices had already provided for a similar exemption. It states that exemption may be allowed in "offices in which the staff is engaged in the administration of public authority". It seems, however, that this formula might well be given a more precise meaning and extended in scope.

It is proposed that the competent authority should be empowered to exclude departments, establishments or services operated directly by the State or a public authority, subject to certain restrictions. Without restrictions, so comprehensive a provision might lead to the exclusion from the regulations of establishments such as central banks, hospitals or asylums administered by a public authority, the travel agencies, hotels and restaurants of State railways, national or municipal theatres, etc. It would be unreasonable to exempt public establishments that may compete directly with similar private undertakings, for on the one hand the private undertakings would have to bear additional social charges from which the State undertakings would be free, while on the other hand the staff of the State undertakings engaged in work similar to that of the staff of private undertakings can claim to benefit by the same social protection.

It is therefore considered that the scope of the exemption should be restricted to public establishments engaged in activities that are entirely different from those of commercial establishments as defined in Article 1 of the proposed Draft Convention. To this end, the Office proposes that the exemption of establishments operated directly by the State or a public authority should be subject to two conditions: (1) they should not possess a commercial character; and (2) they should not make a charge for their services.

### PERSONS EXEMPTED

#### *Industry, Commerce and Offices*

#### ARTICLE 3

It appears that two classes of persons who, by reason of their work, are not subject to the normal rules governing hours of work, should be exempted from the proposed regulations, if this is considered necessary by the competent authority. As in the case of exemptions for undertakings, these exemptions, too, should be optional.

#### *Staff with special responsibilities*

The exemption of persons with special responsibilities has been provided for in every hours of work Convention, but the terms used are not always the same in the different Conventions. They may, however, be reduced to two types<sup>1</sup>:

- (1) exemption of persons occupied in a position of management or in a confidential capacity;

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<sup>1</sup> The history of this question was given in detail in the Blue Report on the reduction of hours of work in the textile industry (International Labour Conference, 23rd Session, Geneva, 1937, Report II, pp. 82 and 83).

- (2) exemption of persons who, by reason of their special responsibilities, are not subject to the normal rules governing the length of the working week.

The second formula is that used in the Convention for the textile industry, that is to say the most recent hours of work Convention. It was accepted by the Conference in 1937 after prolonged and repeated discussion, during which the workers' delegates raised objections to the principle of exempting persons "occupied in a position of management or in a confidential capacity". It may be remembered that the representatives of professional workers have always opposed the adoption of this formula, which they consider too wide..

In these conditions, it seems undesirable to re-open a delicate question, and the best method would no doubt be to follow the second method.

#### *Travellers and representatives*

Travellers and representatives, in so far as they carry on their work outside the undertaking, are free from the supervision for which any hours of work regulations must normally provide. It therefore seems natural to consider the exemption of these persons. It is provided for in a large number of national laws and regulations, and was adopted in the Hours of Work (Commerce and Offices) Convention.

### **III. — Limitation of Normal Hours of Work**

#### **DEFINITION OF HOURS OF WORK**

##### *Industry, Commerce and Offices*

#### **ARTICLE 4**

The absence of a definition of hours of work in earlier Conventions on the subject has made possible various interpretations regarding the meaning of the term "hours of work". A meeting of the Ministers of Labour of Belgium, France, Germany, Great Britain and Italy, held in London in March 1926, agreed on the necessity of a definition, and approved the principle that it should be based on the time during which the persons are at the disposal of the employer. This principle has been accepted in the Conventions on hours of work adopted since that time. These Conventions add that hours of work should not include rest periods during which the persons employed are not at the disposal of the employer. The Office considers, however, that this definition may still permit of differences of interpretation as to whether or not a worker is "at the disposal of the employer" during short breaks which take

place in the course of active work but which are not long enough to enable the worker to leave his place of employment. It was with a view to giving greater precision to the text that the Office proposed that the term "hours of work" should mean the time during which the person employed is at the disposal of the employer and is not free to dispose of his time and movements.

The effect of the proposed text is that short breaks arising in the course of employment, but during which it is not possible for the worker to leave the premises would be included, but that longer intervals, during which the worker is free to do as he pleases, would be excluded from working hours.

It is true that in certain categories of commercial establishments a considerable proportion of the persons employed may be at the disposal of the employer for long periods during which they are partially inactive or have merely to be present without carrying out any active work. In approving the list of points, the Conference agreed that it was better not to deal with such cases by excluding periods of inactivity or mere presence from the definition of hours of work, but to maintain the definition proposed here and to cover such cases by means of a provision enabling the competent authority to grant longer hours of work in the case of all or certain persons employed in the categories of commercial establishments or occupations in which periods of inactivity or mere presence are most likely to arise. This is done in Article 6.

In addition, extensions of hours of work are permitted in Article 8 as regards both industrial and commercial establishments, for persons occupied on essentially intermittent work such as that of watchmen, caretakers, etc.

#### GENERAL LIMITATION OF NORMAL HOURS OF WORK FOR NOT NECESSARILY CONTINUOUS PROCESSES

##### *Industry, Commerce and Offices*

##### ARTICLE 5

The first paragraph of this Article lays down the limit of hours of work which should be applied as the usual practice, subject to the longer limits permitted for certain categories of undertakings or of persons and to the extensions required to meet specified contingencies which are set out in the subsequent Articles of the proposed Draft Convention.

The Conference having approved the principle of the 40-hour week by the adoption of the Forty-Hour Week Convention, 1935, this weekly limit is proposed. This suggestion has also been approved by all but two of the Governments sending in detailed replies to the Questionnaire.

It will be remembered, however, that it was repeatedly emphasised at the Twenty-fourth Session of the Conference that the subject

on its agenda was the generalisation of the reduction of hours of work and that this did not necessarily imply a reduction of hours to 40 a week. In view of the small number of detailed replies received and of the number of Governments whose replies show that they do not consider a 40-hour week applicable in their territories in the near future, the alternative proposal of a 44-hour week is suggested.

The practice of calculating weekly hours of work as an average is found in the national regulations in force in most countries. With the shorter working week, moreover, the need for it would appear to be stronger than with a 48-hour week. This principle was approved by the Conference in the case of the Reduction of Hours of Work (Public Works) Convention, 1936, and the Reduction of Hours of Work (Textiles) Convention, 1937.

Further, all the Governments replying to the Questionnaire are in favour of permitting averaging. A provision to this effect is therefore included in the proposed Draft Conventions.

The proposed provision is purely permissive. In the national regulations previously examined it is found that averaging is almost always confined to particular industries or occupations. In most cases, the period over which the average may be calculated is relatively short. It is impossible in international regulations to specify the cases in which averaging may be resorted to but the text proposed leaves it open to Governments to permit this practice in those cases in which they deem it desirable.

It was recognised in most national regulations, as well as in the replies of Governments, that permission to calculate hours of work as an average should be subject to some restrictions which, in view of the varying circumstances of the activities covered by the scope of the proposed Draft Convention and the differing conditions of industry and commerce in the various countries, can only be determined by the competent authority in each country. It is therefore proposed that those States which avail themselves of this possibility should be required to determine the number of weeks over which the average may be calculated.

The consultation of employers' and workers' organisations concerned is provided for by Article 17 of the proposed text for industry, and in Article 16 of the proposed text for commerce and offices.

## LIMITATION OF NORMAL HOURS OF WORK FOR NECESSARILY CONTINUOUS PROCESSES

### *Industry*

#### ARTICLE 6

The application of the limit of 40 hours to persons employed on continuous processes involves a special and sometimes complex arrangement of shifts. On the other hand a limit of 42 hours permits

the continuous process to be carried on by a succession of four shifts. This figure was therefore suggested to Governments and is generally approved by them.

Should it be decided to fix the limit of hours of work in the case of non-continuous processes at a figure above 40 hours a week, for instance 44 hours, the figure of 48 is suggested for continuous processes. This limit is lower than that of 56 hours authorised in the Hours of Work (Industry) Convention, 1919, and has already been adopted in many national regulations.

In view of the fact that hours of work in continuous processes are usually calculated as an average over several weeks the proposed text provides for this as the normal procedure. The Governments replying to the Questionnaire agree, however, that just as in the case of the calculation of hours of work of persons employed on non-continuous processes, the competent authority should be required to determine the number of weeks over which the average may be calculated. In the same way, the competent authority should be called upon to determine the processes for which the longer limit of hours should apply.

The consultation of employers' and workers' organisations concerned on this subject is provided for in Article 17.

In view of the fact that processes which must, by reason of the nature of the process, necessarily be carried on without interruption do not usually exist in establishments covered by the proposed Draft Convention relating to commerce and offices, this Article is included only in the text applicable to industry.

#### SPECIAL LIMITATION OF NORMAL HOURS OF WORK FOR CERTAIN CATEGORIES OF UNDERTAKINGS OR OCCUPATIONS

##### *Commerce and Offices*

##### ARTICLE 6

In certain categories of establishments and in certain occupations some of the persons employed, though at the disposal of the employer, are not continuously at work. A considerable part of their hours of employment may consist of mere presence. This is particularly the case of persons who are in direct contact with the public, such as those employed in retail trade, and in hotels, restaurants, etc. In addition, in curative establishments certain members of the staff are required to be on duty for long hours, though this does not necessarily mean active work during the whole period.

National regulations in a large number of countries have permitted longer hours for such categories of establishments, and the Office considers that, in the proposed Draft Convention, weekly hours in excess of those otherwise authorised might be applied to the establishments referred to. This principle was approved by the Governments replying to the Questionnaire.

These special limits are proposed only for the following categories of undertakings or occupations: retail and service trades, hotels and similar establishments, curative establishments, theatres and places of public amusement. There is no demand for the inclusion of any other categories of undertakings.

As regards the limits to be applied in such cases, alternative figures have as a rule been proposed. The lower is suggested in the event of the Conference approving the general limit of 40 hours a week, and the higher would correspond to a 44-hour week.

In the case of retail and service trades, a distinction must be made between those establishments which can without difficulty be subjected to customary hours of opening, and those which are required by the public to remain open during prolonged periods of the day or week or at unforeseen times. Among examples of the establishments of the second kind, reference may be made to food shops, chemists' shops, hairdressers and beauty parlours, stands in or about railway stations selling tobacco, books and newspapers, petrol stations, establishments distributing spare parts required by motorists in the event of breakdown, etc.

In the case of the establishments which are not required to remain open outside customary shopping hours, it appears excessive to provide a weekly limit of 48 hours, particularly when a certain number of countries have already introduced a limit of hours below 48 a week for such establishments. If, however, the Conference should approve a general limit of 44 hours for other commercial establishments and offices, a 48-hour week might apply to the retail and service trades under consideration.

For establishments which are required to remain at the disposal of the public during prolonged periods of the day or week or at unforeseen times, a weekly limit of 44 hours would in any case be too short. In a large number of countries such shops or similar establishments are not covered by hours of work regulations at all, and in other countries special provisions enable their employees to work for hours in excess of 48 a week. Further, although the Hours of Work (Commerce and Offices) Convention, 1930, limits hours of work to 48 a week for commercial establishments, longer limits may be authorised by the competent authority in the case of shops or other establishments where the nature of the work, the size of the population or the number of persons employed render the limit of 48 hours a week inapplicable. For these reasons the figure of 48 hours a week is suggested for such establishments, with the alternative limit of 52 hours.

In the case of hotels and similar establishments the Conference had agreed that Governments should be consulted on the basis of a 52-hour week. Legislation on a 48-hour week basis exists, however, in many countries and certain Governments favoured such a limit, or even a lower one in their replies. The two weekly limits of 48 and 52 hours are therefore suggested in the proposed Draft Convention.

As regards curative establishments, regulations in a number of

countries already apply a 48-hour week and in a number of others a strong movement exists towards a reduction of hours of work to this limit. This figure is also approved by those of the Governments which reply to the Questionnaire and which agree that a limit of hours should be fixed by international regulations for this category of establishments. Consequently, the proposed Draft Convention suggests a 48-hour week only in such cases.

For theatres and places of public amusement, the limits of 48 and 52 hours a week are suggested as alternatives.

While in most of the establishments belonging to the classes referred to above there are many workers who are not continuously active, there are also many others who are fully occupied during their hours of work. It is therefore not possible to subject all the staff of such establishments to uniform hours of work and it is necessary to determine exactly the classes of persons in respect of whom the longer limits of hours may apply. The proposed Draft Convention requires this to be done by the competent authority.

Calculation of the weekly limits of hours of work as an average may be required in the above establishments in the same way as in other industrial and commercial undertakings, and the same provisions have therefore been made in the proposed text.

The competent authority is required to consult the employers' and workers' organisations concerned, where such exist, before availing itself of the provisions of this Article; this question, however, is dealt with in Article 16 of the draft for commerce and offices.

## MAKING UP LOST TIME

### *Industry, Commerce and Offices*

#### ARTICLE 7

Regulations on the subject of making up lost time exist in a considerable number of countries and the importance of such provisions increases when the hours of work are reduced. Time may frequently be lost in any undertaking through circumstances beyond the control of the employer, more particularly through the cases mentioned of accident or *force majeure*, weather conditions or a public holiday falling on a working day. Such collective stoppages of work may involve a considerable loss to the employer and a loss of wages to the worker. Provision enabling lost time to be made up in these cases is therefore included in the proposed Draft Conventions.

If, however, the making up of lost time is permitted, certain restrictions are usually considered desirable, and those suggested in the Questionnaire, which were generally approved by the Governments in favour of making up lost time, are included in the texts submitted. They limit the making up of lost time to the cases arising out of collective stoppages of work resulting from the

circumstances mentioned above, and require the competent authority to determine the conditions under which lost time should be made up, and more particularly the period within which it may be made up and the maximum extension of weekly hours permitted in such cases.

The consultation of the employers' and workers' organisations concerned, where such exist, is provided for in Article 17 of the draft for industry and in Article 16 of the draft for commerce and offices.

#### IV. — Extensions of Hours of Work

##### EXTENSIONS FOR CERTAIN CATEGORIES OF WORK OR OF OCCUPATION

###### *Industry, Commerce and Offices*

###### ARTICLE 8

The purpose of this Article is to enable the competent authority to permit the limits of hours fixed in the preceding articles to be exceeded in the case of certain classes of work and occupation.

As is provided elsewhere, the competent authority must first consult the employers' and workers' organisations concerned, these being in a position to supply accurate information as to the cases in which extension is essential and as to the limits which would be reasonable and adequate.

Paragraph (a) refers to persons engaged in preparatory or complementary work. In some cases it is necessary for the normal working of the undertaking that persons such as mechanics, firemen, electricians, etc., should work at hours other than those fixed for the staff as a whole. Most national laws and regulations authorise an extension of hours of work in such cases.

Paragraph (b) refers to persons employed on essentially intermittent work, such as caretakers, doorkeepers, watchmen, time-keepers, etc. In many countries the laws or regulations allow longer hours for this class of workers.

In both the cases mentioned above, all the international Conventions adopted so far with regard to hours of work permit the limits of hours of work to be exceeded, and nearly all the Government replies virtually approve of the principle.

Paragraphs (c) and (d) allow of extending hours of work in the case of persons employed on operations which, once started, must for technical reasons be continued until completed, or which cannot be interrupted without damage to materials or goods. The former covers operations whose duration is liable to vary with circumstances or the rate of which can hardly be influenced by the workers. The latter covers operations that must be carried out promptly in

certain branches of activity, for instance, the building industry or the trade in perishable foodstuffs.

It should be pointed out that the extensions in these two cases are permitted only for the persons whose continued presence is necessary for carrying out the operations; in other words, the operations must be such that they cannot be completed by workers in the next shift. It follows that it would be difficult to justify an extension under this clause in cases where work is normally carried out by successive shifts.

Several of the hours of work Conventions have allowed, though on a smaller scale, for the circumstances contemplated in paragraphs (c) and (d); the replies from Governments seem to justify the insertion of these two paragraphs in the proposed Draft Convention.

Paragraph (e) is new, and refers to persons engaged on work required to co-ordinate the work of two successive shifts. Work of this kind might be considered to be covered by paragraph (a) concerning preparatory and complementary work, but such an interpretation would not eliminate the possibility of misuse. The purpose of the new paragraph is to make the situation quite clear. It may be pointed out that in practice such extensions are allowed in several countries. Most of the Governments which replied to the Questionnaire approve of the principle.

Lastly, paragraph (f) provides for various special and periodical operations that have to be carried out in industrial and commercial undertakings. It covers not merely the preparation of balance sheets, but also such work as periodical liquidations, audits, and the additional work that has to be done on settlement days and when accounts are periodically closed. The Convention concerning hours of work in commerce and offices and the laws or regulations of several countries provide for extensions in such cases.

## EXTENSIONS FOR ACCIDENTAL CIRCUMSTANCES

### *Industry, Commerce and Offices*

#### ARTICLE 9

All the international Conventions concerning hours of work provide for the extensions authorised by sub-paragraphs (a) and (b) of paragraph 1. They could hardly have done otherwise, considering the exceptional circumstances in view, whose effect on the working of the undertaking and on the situation of the workers can be considerable.

With a view to uniformity, the Office proposes the usual wording, but suggests that the word "installations" should be inserted in the clause which refers to "urgent work to be done to machinery or plant". The purpose of this insertion is to permit the extension of hours of work in the case of urgent work to be done to the

buildings themselves or, for instance, to water or heating installations.

Paragraph 2 is new, its purpose being to permit the extension of hours of work where necessary to ensure the working of a service of public utility. The Office at first thought that it would be better to provide for a suspension of the regulations in such cases, but after a thorough investigation it appeared that the circumstances which arise are more in the nature of those contemplated here and that it would be sufficient to permit the hours of work to be exceeded.

Paragraph 3 is the same as that contained in the international Convention concerning the reduction of hours of work in the textile industry. Its purpose is to ensure that the competent authority shall be informed as soon as possible of extensions in urgent cases and of the reasons for such extensions.

## EXTENSIONS ON ACCOUNT OF SHORTAGE OF SKILLED LABOUR

### *Industry, Commerce and Offices*

#### ARTICLE 10

No direct provision is made in the existing hours of work Conventions for extensions on account of a shortage of skilled labour. Only the Draft Convention concerning public works provides for an extension where necessary to avoid serious hindrance to the execution of a particular public work on account of abnormal circumstances, such as the impossibility of engaging sufficient qualified labour.

The reason for which the Office proposes this new Article is that shortage of skilled labour has often been mentioned as a serious obstacle to the reduction of hours of work. It seems that in cases where it is impossible to recruit workers with the necessary skill and ability, an extension is inevitable in the interests both of the undertaking and of the workers. Several Governments suggest that such an extension should be contemplated.

It would therefore be desirable to give the competent authority power to permit the limits of hours to be exceeded, but when using that power, the authority ought to apply certain rules to ensure that the extension will be properly used. The extension should be exceptional. The employer should only be authorised to exceed the limits of hours of work when the competent authority is satisfied that there is a shortage of indispensable skilled labour, and to this end it should consult the employers' and workers' organisations concerned, employment exchanges, and other competent bodies.

The competent authority should also determine the classes of persons covered. Lastly, since it is impossible to lay down limits for the extensions in international regulations, the competent

authority should be required to fix the maximum weekly hours of work and the period during which additional hours may be worked.

## EXTENSIONS FOR CLASSES OF UNDERTAKINGS THE ACTIVITIES OF WHICH ARE SUBJECT TO SEASONAL VARIATIONS

### *Industry, Commerce and Offices*

#### ARTICLE 11

This is a new article; it applies to those classes of industrial and commercial undertakings and establishments which are affected by changes in the season or in weather conditions, such as, for instance, building undertakings, sugar mills, canning factories, sawmills, curative establishments, and undertakings connected with tourist and holiday traffic, etc.

In view of the fluctuations in their activity, such undertakings may find it very difficult to apply the normal hours. Accordingly, various solutions have been adopted in national laws and regulations: seasonal undertakings are excluded from the scope of the legislation or are permitted to calculate hours of work over a longer period in the year or may make up lost time. As stated in connection with previous articles, the Office suggests that these various solutions should be retained in the international regulations.

There are, however, national laws or regulations that provide for the extension of hours of work in the case of seasonal undertakings. The Office therefore has thought it expedient that provision should also be made for such extension in the proposed Draft Convention. It may be pointed out that the Hours of Work (Industry) Convention and the 1930 Hours of Work (Commerce and Offices) Convention do not provide for any special extension in the case of seasonal undertakings. Neither of these Conventions, however, limits the overtime that may be done in the event of extraordinary pressure of work, whereas the Office suggests, for reasons given later, that an overtime allowance should be fixed without specifying the circumstances in which the overtime may be worked. When fixing the amount of the overtime allowance the needs of undertakings operating under normal circumstances would have to be taken into account, and not the special needs of seasonal undertakings.

Similarly, it would not be possible to provide for a special overtime allowance for seasonal undertakings, since such provision is made in a few national laws or regulations only, and the figures vary considerably from one country and one occupation to another.

Since all the Governments are in favour of an extension for seasonal undertakings, the Office suggests that there should be a special clause to that effect in the international regulations.

As in the case of extensions for certain categories of work or of

occupation and in that of extensions on account of shortage of skilled labour, the competent authority would be given power to allow the limits of hours to be exceeded. As is provided elsewhere, the competent authority would have to consult the employers' and workers' organisations concerned before determining the classes of undertakings affected. It should also determine the maximum weekly hours of work and the period or periods during which additional hours may be worked.

## OVERTIME WITH INCREASED REMUNERATION

### *Industry, Commerce and Offices*

#### ARTICLE 12

Apart from the extensions contemplated in the four preceding Articles, the Office suggests that provision should be made for working overtime with increased remuneration. The purpose here is to authorise temporary extensions that will enable undertakings to meet economic requirements or other unforeseen contingencies.

All the international Conventions limiting hours of work permit such extensions and all the Governments which replied to the Questionnaire approve of the principle.

Unlike the extensions suggested in the preceding Articles, overtime is a matter of interest to all undertakings and workers without exception. It is therefore necessary to ensure that it will be exceptional and will not tend to become the rule. The Office suggests this should be achieved by setting a minimum rate of overtime pay, providing that a definite procedure should be followed, and prescribing a maximum amount of overtime.

Following the request made by several Governments, the Office proposes that the international regulations should provide for an alternative method which would permit of restricting recourse to overtime. This method consists not in limiting the amount of permissible overtime but in prescribing a penalty rate of remuneration so as to prevent abuse.

#### *Minimum rate of increased remuneration*

The Office proposes that hours worked under the present Article should be considered as overtime and paid for at an increased rate, which should in no case be less than one-and-a-quarter times the normal rate.

The views of the Governments which replied to the Questionnaire differ as to the minimum overtime rate. Some Governments propose different minimum rates that would vary according to the special circumstances of each branch of activity, the extent of the overtime worked, and the time at which it is worked.

In the interests of uniformity, both with the other international

Conventions adopted so far and with the provisions in force in many countries, the Office proposes that the increased rate of remuneration should be prescribed in regulations made by the competent authority and should be at least time-and-a-quarter.

### *Procedure*

When issuing regulations to allow the working of overtime, the competent authority should lay down the procedure to be followed and the conditions on which overtime may be worked.

On the general grounds that the international regulations should not be unnecessarily rigid, the Office has come to the conclusion that the competent authority had best be left to determine the procedure. As is provided elsewhere, the competent authority would, before issuing the regulations, have to consult the employers' and workers' organisations concerned.

### *Overtime limits*

Another measure that is necessary to prevent misuse of overtime facilities consists in fixing the maximum amount of overtime that may be worked in any one year by anyone to whom the proposed Draft Convention applies. The international Conventions adopted for the textile industry and for public works prescribe a maximum yearly amount of overtime. Moreover, most of the Governments which replied to the Questionnaire are in favour of this measure.

The Office therefore proposes that the regulations issued by the competent authority should prescribe the maximum amount of overtime for which a permit may be granted. This amount, which might vary according to the special needs of different branches of activity, should not, however, exceed the annual limit fixed in the proposed Draft Convention. The figure suggested is 100 hours. It should be noted that the overtime allowances suggested by Governments vary considerably. However, in view of the proposals made by Governments, of the limits suggested for hours of work and the various facilities provided for extensions in preceding articles, it seems that a maximum allowance of 100 hours a year should be sufficient to meet the normal requirements of various activities. The Office has also thought it desirable to provide, as in the Convention adopted in 1937 with regard to the textile industry, for a higher overtime allowance in the case of countries whose laws or regulations strictly limit the hours of each week, and do not allow of calculating them as an average over a period exceeding one week. In such cases an additional allowance of 75 hours would seem appropriate.

If, however, the Conference decides to fix the limits of hours of work at 44 in the week for non-continuous, and 48<sup>1</sup> for continuous operations, it would no doubt be better to fix the maximum overtime allowance at only 75 hours in the year when hours of

<sup>1</sup> This limit would apply only to industrial undertakings.

work may be calculated as an average over several weeks, and at 150 hours when the weekly limit is a rigid one.

#### *Alternative method of restricting recourse to overtime*

In order to make this Article as flexible as possible, the Office proposes that provision should be made in paragraph 3 for an alternative method, such as applies in some countries. Instead of prescribing a maximum limit for overtime, this method consists in setting a very high rate of increased remuneration for such overtime. Paragraph 3 therefore gives the competent authority power to permit the limits of hours of work to be exceeded, provided the overtime is paid for at not less than one-and-a-half times the normal rate.

It should be noted that in countries where the alternative method applies, the conditions under which overtime may be worked are usually laid down in collective agreements freely concluded between the employers' and workers' organisations concerned. There is thus a guarantee that recourse to overtime will be had only in cases of necessity.

In short, the Office proposes that the international regulations should provide for two methods of limiting overtime and leave Governments to choose the method they find more suitable. In the first alternative, the competent authority can place at the disposal of the undertakings a maximum allowance of 100 hours' overtime (75 hours if the limit of hours of work is fixed at 44 in the week) when hours of work may be calculated as an average over several weeks, and of 175 hours (150 hours, if the weekly limit is fixed at 44 hours) when the weekly limit is an absolute one; such hours should be paid for at a rate of not less than time-and-a-quarter. In the second alternative, overtime is unlimited but must be paid for at a rate of not less than time-and-a-half.

### V. — Gradual Application of the Regulations

#### *Industry, Commerce and Offices*

#### ARTICLE 13

The purpose of the clause to permit gradual application is to facilitate the transition from the limits of hours applying in States which have not yet begun to reduce hours of work to those instituted by the proposed Draft Convention.

The Office proposes that the transitional scheme should apply during a specified period which would run from the date at which the Convention comes into force for the Member concerned. The alternative scheme, which would make the transitional period run from the date at which the Convention first comes into force in any country is not suggested, since in that case, States that are in a position to ratify would be less and less inclined to do so as

time went on and the transitional period became shorter so far as they themselves were concerned.

The length of the transitional period should not exceed three years. It does not seem expedient to provide for an extension of the period in special cases since, during a period of three years running from the date at which the Convention is ratified, a country is really in a position to ensure the gradual introduction of the new scheme without serious inconvenience.

The Office proposes that, during the transitional period, arrangements might be approved reducing hours of work to 44 a week. The figure of 44 is justified by the fact that it is halfway between the 48-hour limit in force in most countries, and that of 40 hours which should be prescribed in the proposed Convention. If a limit of 44 hours were to be adopted as the limit to be ultimately applied, weekly hours of work during the transitional period might be fixed at 46.

It should be pointed out that the transitional scheme would not be automatically applied by all the undertakings or establishments covered by the Convention, but that it would be left to the competent authority to approve any arrangements submitted to it.

As regards the classes of establishments or occupations for which special limits of hours are fixed in virtue of Article 6 of the proposed Draft Convention concerning commerce and offices, the Office suggests that in view of the large number and variety of the cases of this kind which are bound to arise, the competent authority in each country should be left to determine the special limits of hours during the transitional period.

## VI. — Special Provisions for Certain Areas or Countries

### *Industry, Commerce and Offices*

The special provisions outlined in questions 68 to 77 of the Questionnaire are of two types. Some may be applicable in almost any country, even a highly industrialised country; these are outlined in Article 14. Others are intended to meet the requirements of those countries referred to in Article 19, paragraph 3, of the Constitution of the International Labour Organisation, in which climatic conditions, the imperfect development of industrial organisation or other circumstances make the industrial conditions substantially different. These provisions are the subject of Article 15.

### EXEMPTION OF CERTAIN AREAS

### *Industry, Commerce and Offices*

#### ARTICLE 14

For the first group of countries, any special provisions are based on the impossibility of the effective enforcement of the application of the proposed Draft Convention in certain areas.

The difficulty of effective enforcement is based on the fact that in these areas the population may be sparse or they may be in an early stage of economic development. There are in many countries, even in important industrial countries, large areas in which there is very little industry and in which there is no developed administrative machinery to deal with industrial matters. Such countries would, by Article 14, be authorised to exempt such areas from the application of the Convention.

On the other hand, even within such areas, there may be localities in which there would be no reason for not applying the provisions of the Convention. It may also be possible to apply the regulations relating to hours of work to certain classes of undertakings or establishments if the competent authority considers that owing to their size, character or localisation, they could be subject to regulation and supervision.

For this reason, it is provided that the competent authority may exempt certain areas from the application of the Convention either generally or with such exceptions in respect of particular localities or particular classes of undertakings or establishments as it thinks fit.

Article 14 is based on the text already approved by the Conference as Article 5 of the Safety Provisions (Building) Convention, 1937.

#### SPECIAL PROVISIONS FOR CERTAIN COUNTRIES

##### *Industry, Commerce and Offices*

##### ARTICLE 15

Article 15 is intended to cover the situation in those countries in which the criteria of Article 19, paragraph 3, of the Constitution, that is climatic conditions and the imperfect development of industrial organisation, apply. Such provisions find their parallel in those included in certain of the Conventions adopted at Washington in 1919 and, to take a recent example, in the provisions of Part II of the Minimum Age (Industry) Convention (Revised), 1937.

In view of the fact that the Governments most likely to be affected by the need for special provisions do not suggest the modifications to the terms of the proposed Draft Conventions which they consider necessary to meet their case, it is not possible to propose any special figures to deal with the position in particular countries. The article suggested must therefore confine itself to general principles, the application of which in particular countries must be left to the discretion of the competent authority of the Member concerned.

For the same reason, the list of Members to which these special provisions might apply is left blank in the proposed draft. In the absence of any replies from the Governments concerned, this list

must be filled in during the Conference. At that time, the delegates from the countries which consider that the terms of the Convention should be modified to meet their special circumstances will, of course, have an opportunity of submitting more detailed proposals if they so desire.

The possibility of extending the limit of hours to a figure not exceeding 48 a week is provided. This figure is only a tentative one, suggested in the Questionnaire, but it represents a substantial improvement in the legislative situation existing in, for instance, China, Egypt or India.

Further, in some of these countries undertakings employing less than a stated number of workers are exempt from the national regulations. It has been pointed out in the past by certain Governments that to include small undertakings in some of the countries in which regulations do not at present apply to them would present almost insuperable difficulties of an administrative character. In addition, even where small undertakings are as a rule included, the scope of the proposed Draft Conventions, being very extensive, covers certain categories of undertakings which may not have been hitherto covered by the national regulations, and the extension of the scope of national legislation to include these branches of industry or commerce would certainly be rendered more difficult if the administrative authorities were obliged to supervise the hours of work of a large number of small establishments. It is therefore proposed that these countries be permitted to exempt from the application undertakings or establishments employing a number of persons specified in its national laws or regulations. This figure, however, is limited to twenty. This provision enables the present legislative position on this subject to be maintained, as regards the branches of activity in which hours are at present regulated, in all countries except China.

It would appear impracticable to lay down in the proposed Draft Convention for commerce and offices the limits of hours which could be applied by the States Members under consideration in the case of categories of commercial establishments and occupations for which special limits are suggested in Article 6. In most of the countries in which longer hours will be likely to be authorised by the Convention, no regulations exist affecting shops, hotels, curative establishments and theatres. Conditions vary very considerably and no single limit laid down in the Convention could be expected to apply to all cases. It is therefore suggested in subparagraph (b) of paragraph 1 of the proposed Article in the Draft Convention for commerce and offices that the Members concerned be asked to undertake the obligation, if they ratify the Convention, of bringing these categories of establishments or occupations within the scope of their regulations on hours of work. The actual limit of hours would be left to be determined at their discretion.

As the special limits to be applied in certain countries should be known once and for all, and should constitute standards which

should not be reduced in the future, it is suggested that the Member be asked to state at the time of ratification which limits of hours are to be applied in its territory, and which classes of undertakings or establishments are to be exempted from the application of the Convention.

Further, it is particularly desirable to provide for a progressive improvement in the standard applied in the countries concerned. In the course of time, it is to be hoped that limits of hours might be reduced and the regulations might be extended to cover classes of undertakings previously exempted. It is therefore suggested to Members that they make at a subsequent time a declaration accepting a limit of hours lower than that specified in any earlier declaration, and undertaking to apply the Convention to undertakings or establishments previously excluded.

In addition, the Governing Body is asked to reconsider the provisions of this article with a view to their revision in the course of a period of five years from the coming into force of the Convention in question.

The suggested article is identical in substance with the draft of an article approved by a Sub-Committee appointed to deal with this question by the Committee on the Reduction of Hours of Work in the Textile Industry during the 1937 Session of the Conference. These proposals had not, however, been sufficiently considered by the Governments concerned, so that in the end they were not embodied in the Reduction of Hours of Work (Textiles) Convention, 1937.

## VII. — Special Provisions for Workers employed Underground in Mines other than Coal Mines

### *Industry: ARTICLE 16*

Owing to the very special problems that arise in the organisation of work for persons employed underground in mines, it seems necessary to provide in a special article for the modification of some articles of the proposed Draft Convention in the case of mines other than coal mines, coal mines themselves being dealt with in a separate Draft Convention. Such modification appears to be needed only with regard to the limits and the calculation of hours of work.

#### *Persons and Undertakings covered by the Special Provisions*

The proposed article would apply to persons employed in underground work in all mines other than those from which coal, including lignite, is the only or principal mineral extracted. It therefore covers metalliferous, rock salt, potash, bituminous shale, etc., mines. Although the Office would have liked to define the scope of this article in the actual Convention, it does not seem

possible to enumerate the classes of undertakings to be covered by the term "underground mine" since, having regard to the doubtful cases which often arise, this could only be done by the competent authority in each country.

### *Definition of Hours of Work*

Underground mines may be entered either through a shaft or by an adit. The regulations usually define hours of work as the time spent by the worker in the mine. When, however, the workers reach the mine by going down a shaft, the time spent in the mine may be counted either individually or collectively for a group of workers, the size of which may vary, and which goes down in one or more cage loads. In the latter alternative, the definitions given in national regulations of time spent in the mine vary considerably; it seemed essential in the Conventions of 1931 and 1935 (Revised) concerning coal mines to give a definition that would apply internationally, and to specify the methods of calculating hours of work collectively which would be compatible with that definition.

In view of the similarity of the problems that are raised by the calculation of hours of work in different kinds of underground mines, the Office proposes that the definitions on which agreement was reached a long time ago in the technical committees of the Organisation, and which are reproduced in the proposed Draft Convention concerning coal mines, should be adopted for other underground mines.

### *Determination of Hours of Work*

The proposed Draft Convention concerning the reduction of hours of work in coal mines provides that hours of work shall be limited to  $7\frac{3}{4}$  hours in the day and an average of  $42\frac{5}{8}$  hours in the week, that is the equivalent of 11 shifts of  $7\frac{3}{4}$  hours per fortnight. On the other hand, hours of work in industrial undertakings would generally be limited to 40 hours a week under the proposed Draft Convention considered in these pages.

While there are strong reasons for this differentiation between the two schemes, it raises a delicate point as regards underground mines other than coal mines. On the one hand, it hardly seems logical that two Conventions which have been drafted simultaneously should provide for longer hours of work in coal mines than in other mines where conditions of work are generally known to be less trying; on the other hand, it could hardly be suggested that one and the same Convention should institute for underground mines other than coal mines longer hours than those prescribed for other industrial undertakings.

The Office is bound to take this latter argument, which seems to be decisive, into account, and therefore proposes an average working week of 40 hours for mines other than coal mines. It is added, however, that the daily hours of work must not exceed 8. This daily limitation, which is not provided for in the case of industrial

undertakings generally, seems necessary in that of underground mines for physiological reasons which need not be stressed here.

If the weekly limit of hours for industrial undertakings generally is to be 44, provision might be made for 8-hour shifts and an average of  $42\frac{5}{8}$  hours in the week for the underground mines covered by the Convention. If this limitation is adopted, the length of the shift, which would probably be reduced to  $7\frac{3}{4}$  hours, would still be less than the maximum of 8 hours prescribed in the proposed Draft Convention.

The limits prescribed for underground mines other than coal mines should be reviewed by the Conference when it has taken a decision as to the limits to be set in the Convention dealing with coal mines.

The Office proposes that the procedure suggested for coal mines should be adopted, that is that the competent authority should determine the methods by which average hours of work are to be calculated.

#### *Necessarily Continuous Work*

If underground plant whose operation is necessarily continuous is to be under continuous supervision, the workers responsible for such supervision must be at the workplace throughout the shift, and consequently the time they take to reach the workplace and to return must be added to their hours of work.

This was one of the main reasons why the Hours of Work (Coal Mines) Convention, 1931, had to be revised in 1935. The Office now proposes that the weekly hours of workers employed on operations which by their nature must be carried on continuously should be limited to an average of 42, which would allow of continuous work, with four shifts, throughout the seven days of the week, and that the competent authority should be made responsible for determining the methods of application.

If the weekly limit for industrial undertakings in general is to be 44 hours, it might be fixed at 48 hours for the workers considered here. Such a scheme would still be more favourable than that provided for in the Washington Convention, which in these cases allows an average of 56 hours to be worked in the week.

### VIII. — Consultation of Employers' and Workers' Organisations

#### *Industry: ARTICLE 17*

#### *Commerce and Offices: ARTICLE 16*

The proposed Draft Conventions require the competent authority in each country to take decisions on a number of points affecting the preparation and the detailed application of their provisions. In order to ensure that the interests of the parties most directly concerned, that is, the employers' and workers' organisations

affected by the regulations, are adequately taken into account, it was suggested in the Questionnaire that these organisations, where they exist, should be consulted by the competent authority before it issues regulations or takes any important decisions affecting their administration. The Governments' replies endorsed this suggestion. This procedure is required in all the early Conventions on hours of work, and is followed in a very large number of countries. It has the advantage of enabling those concerned to state their views, and makes it easier for the competent authority to get the information it requires if it is to take the special problems of the various industries and trades into account.

Instead of stating in almost every article that the competent authority is required to proceed with such a consultation, the Office thought it preferable, for drafting reasons, to embody this obligation in a separate article, as was done, for instance, in the Hours of Work (Coal Mines) Convention (Revised), 1935.

The need for such consultation arises in particular when the competent authority decides upon the exemption of certain categories of undertakings (Article 2) or of persons (Article 3) from the scope of the Convention, permits the calculation of weekly hours as an average and determines the period over which the average shall be calculated (Article 5, paragraph 2; Article 6, paragraph 2 for industry and paragraph 3 for commerce and offices) determines the special limits applicable to certain categories of establishments, and the persons employed therein to whom these limits shall apply (Article 6 (2)), permits and regulates the making up of lost time (Article 7), permits and regulates extensions of hours for certain categories of work or occupations (Article 8), in cases of shortage of skilled labour (Article 10), in the case of categories of undertakings or establishments the activity of which is subject to seasonal fluctuations (Article 11), and when it grants overtime with increased remuneration (Article 12).

It is also required that the competent authority proceed to such a consultation when, in certain countries, special limits are fixed for certain categories of commercial establishments (Article 15, paragraph 1 (b)). The methods of applying the limits of hours proposed in the case of persons employed underground in mines covered by the proposed Convention on industry should also be decided only after consultation with those concerned (Article 16, paragraph 3).

## IX. — Supervision of the Application

### *Industry: ARTICLE 18*

### *Commerce and Offices: ARTICLE 17*

The Office proposes that the international regulations should provide for measures of supervision as regards time-tables, the rotation system, if any, the calculation of hours of work as an

average, the making up of lost time, and rest periods. The employer should also be required to keep a record of any overtime worked and the payments made in respect thereof.

The purpose of these measures is to ensure that the enforcement of the international regulations will be as uniform as possible and to provide for supervision of the actual effect given to the national regulations of various countries in industrial and commercial establishments. The measures are in harmony with the principle laid down in previous international Conventions concerning hours of work, and are approved in all the replies received from Governments. Moreover most of the national regulations provide for the supervision of their enforcement.

## X. — Suspension of the Regulations

*Industry: ARTICLE 19*

*Commerce and Offices: ARTICLE 18*

The Office suggests that this article should be included in the proposed Draft Convention in order to meet the wishes expressed by certain Governments which replied to the Questionnaire and to take into account the provisions made in this respect in the national regulations of some countries. A similar article is to be found in earlier international Conventions.

The terms used in the Questionnaire have been altered slightly in order to make it clear that the article applies only in cases where from a national point of view there is some real danger. Recourse to the provision would therefore be possible only in exceptional circumstances. That is why the reference to the necessity for ensuring the working of a service of public utility, which is of a somewhat different kind, has been transferred from the present article to Article 9, which deals with extensions in exceptional circumstances.

The International Labour Office should immediately be informed of any suspension and of the reasons for it. It would also appear to be desirable that Governments should notify the date from which suspension has been terminated.

## XI. — Annual Reports

*Industry: ARTICLE 20*

*Commerce and Offices: ARTICLE 19*

This article contains seven paragraphs requiring Governments to supply, in virtue of Article 22 of the Constitution of the Interna-

tional Labour Organisation, detailed information on the following points: exemptions authorised by national regulations from the scope of the Convention; regulations concerning the calculation of hours of work over a period exceeding a week; determination of necessarily continuous processes in which a 42 or 48-hour week is allowed<sup>1</sup>; decisions taken by the competent authority with regard to the special limitation of hours of work for certain classes of establishment or occupation<sup>2</sup> and the conditions in which lost time may be made up; measures taken with regard to extensions of hours of work and overtime; and the use made of the special provisions for the gradual application of the international regulations.

As some Governments suggest, it would also be expedient to ask for information on the use made of special provisions concerning certain territories or countries, but it seems better to deal with this point in Articles 14 and 15 together with other points concerning such territories or countries.

The Office suggests that the various measures mentioned above should be provided for in the proposed Draft Convention, since they are to be found in the Draft Conventions concerning the reduction of hours of work in public works and in the textile industry and are approved of by all the Governments which replied to the Questionnaire.

## XII. — Safeguarding Clause

### *Industry: ARTICLE 21*

### *Commerce and Offices: ARTICLE 20*

In view of the opinion expressed by the Governments which replied to the Questionnaire, and in accordance with the method adopted in a number of recent international Conventions, the Office suggests that the proposed Draft Convention should include a clause based on Article 19, paragraph 11, of the Constitution of the International Labour Organisation. The purpose of the clause is expressly to protect existing conditions when these are more favourable than those of the proposed Draft Convention. The terms used in the present article are those of the Reduction of Hours of Work (Textiles) Convention, 1937.

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<sup>1</sup> This applies only to industrial undertakings.

<sup>2</sup> This applies only to commercial establishments.

# PROPOSED DRAFT CONVENTION CONCERNING THE REDUCTION OF HOURS OF WORK IN INDUSTRY

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## ARTICLE I

1. This Convention applies to manual and non-manual workers, including apprentices, employed in public or private industrial undertakings, including particularly:

- (a) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity, the production or distribution of gas or motive power of any kind, the purification or distribution of water, or in heating;
- (b) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any one or more of the following:
  - buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges, viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipe-lines, waterworks,
  - and undertakings engaged in other similar work or in the preparation for or laying the foundations of any such work or structure;
- (c) mines, quarries or other works for the extraction of minerals from the earth, excluding mines from which coal, including lignite, is the only or principal mineral extracted;
- (d) transport services of undertakings referred to in sub-paragraphs (a), (b) and (c) of this paragraph, which services
  - (i) are used only to meet the requirements of such undertakings;
  - (ii) are not open to public traffic; and

# AVANT-PROJET DE CONVENTION CONCERNANT LA RÉDUCTION DE LA DURÉE DU TRAVAIL DANS L'INDUSTRIE

## ARTICLE 1

1. La présente convention s'applique aux ouvriers, employés et apprentis occupés dans les entreprises industrielles, publiques ou privées, comprenant notamment:

- a) les établissements dans lesquels les produits sont manufacturés, modifiés, nettoyés, réparés, décorés, achevés, préparés pour la vente, détruits ou démolis, ou dans lesquels les matières subissent une transformation, y compris la construction des navires, ainsi que les entreprises de production, de transformation et de transmission de l'électricité, les entreprises de production et de distribution du gaz ou de force motrice en général, les entreprises d'épuration et de distribution des eaux, et les entreprises de chauffage;
- b) les entreprises de construction, reconstruction, entretien, réparation, modification ou démolition des ouvrages suivants : bâtiments et édifices, chemins de fer, tramways, aéroports, ports, docks, jetées, ouvrages de protection contre l'action des cours d'eau et de la mer, canaux, installation pour la navigation intérieure, maritime ou aérienne, routes, tunnels, ponts, viaducs, égouts collecteurs, égouts ordinaires, puits, installations pour l'irrigation et le drainage, installation pour télécommunications, installations afférentes à la production ou à la distribution de force électrique et de gaz, pipe-lines, installations de distribution d'eau, ainsi que les entreprises s'adonnant à d'autres travaux similaires et aux travaux de préparation ou de fondation précédant les travaux ci-dessus;
- c) mines, carrières et industries extractives de toute nature, à l'exclusion de toute mine d'où il est extrait, soit exclusivement, soit principalement, du charbon, y compris du lignite;
- d) les services de transport des entreprises visées aux alinéas a), b) et c) de ce paragraphe, lorsque ces services :
  - i) sont utilisés exclusivement pour les besoins desdites entreprises;
  - ii) ne sont pas ouverts au trafic public;

- (iii) do not operate on a public road, railway, or inland waterway;
- (e) parts or services of transport undertakings, which parts or services would, if independent undertakings, be covered by one or more of sub-paragraphs (a), (b) or (c) of this paragraph.

2. In any case in which it is doubtful whether any undertaking, part or service of an undertaking is an undertaking, part or service to which this Convention applies, the question shall be settled by the competent authority.

## ARTICLE 2

The competent authority may exempt from the application of this Convention persons employed in—

- (a) undertakings where only members of the employer's family are employed;
- (b) undertakings ordinarily employing not more than six persons;
- (c) undertakings or parts thereof engaged wholly or mainly in the first processing of agricultural products, dairy products meat, poultry or fish; and
- (d) the health and welfare services of undertakings.

## ARTICLE 3

The competent authority may exempt from the application of this Convention—

- (a) classes of persons who by reason of their special responsibilities are not subject to the normal rules governing hours of work;
- (b) travellers and representatives, in so far as they carry on their work outside the undertaking.

## ARTICLE 4

For the purpose of this Convention the term "hours of work" means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements.

- iii) n'utilisent pas une route publique, une voie ferrée publique ou une voie d'eau intérieure publique;
  - e) les parties ou services des entreprises de transport qui, si elles constituaient des entreprises indépendantes, seraient visées par un ou plusieurs des alinéas a), b) et c) du présent paragraphe.
2. Dans tous les cas où il n'apparaît pas certain qu'une entreprise, une partie d'entreprise ou un service est visé par la présente convention, la question doit être tranchée par l'autorité compétente.

## ARTICLE 2

L'autorité compétente peut exempter de l'application de la présente convention les personnes occupées dans:

- a) les entreprises où sont seuls occupés les membres de la famille de l'employeur;
- b) les entreprises n'employant habituellement pas plus de six personnes;
- c) les entreprises ou parties d'entreprises s'adonnant entièrement ou principalement aux opérations élémentaires de mise en œuvre des produits agricoles, des produits laitiers, de la viande, de la volaille ou du poisson;
- d) les services sanitaires et sociaux des entreprises.

## ARTICLE 3

L'autorité compétente peut exempter de l'application de la présente convention:

- a) les catégories de personnes qui, en raison de leur responsabilité particulière, ne sont pas soumises aux règles normales sur la durée du travail;
- b) les voyageurs et les représentants, dans la mesure où ils exercent leur travail en dehors de l'établissement.

## ARTICLE 4

Aux fins de la présente convention, l'expression « durée du travail » signifie le temps pendant lequel la personne employée est à la disposition de l'employeur et n'est pas libre de disposer de son temps et de ses mouvements.

## ARTICLE 5

1. The hours of work of persons to whom this Convention applies shall not exceed forty (forty-four) in any one week.

2. The competent authority may permit weekly hours of work to be calculated as an average, and in such case shall determine the number of weeks over which the average may be calculated.

## ARTICLE 6

1. In the cases of persons who work in successive shifts on processes required by reason of the nature of the process to be carried on without a break at any time of the day, night or week, weekly hours of work may average forty-two (forty-eight).

2. The competent authority shall determine the processes to which paragraph 1 of this Article applies, and, where hours of work are calculated as an average, the number of weeks over which the average may be calculated.

## ARTICLE 7

1. The competent authority may permit the limits of hours authorised by the preceding articles to be exceeded to the extent required to make up time lost through collective stoppages of work resulting from—

- (a) accidental causes or cases of *force majeure*;
- (b) weather conditions;
- (c) public holidays falling on a working day.

2. The competent authority shall determine—

- (a) the conditions under which lost time may be made up;
- (b) the periods within which lost time may be made up; and
- (c) the maximum extension of weekly hours permitted when lost time is being made up.

## ARTICLE 5

1. La durée du travail des personnes auxquelles s'applique la présente convention ne doit pas dépasser quarante (quarante-quatre) heures par semaine.

2. L'autorité compétente peut autoriser le calcul en moyenne de la durée du travail et, dans ce cas, elle doit fixer le nombre de semaines sur lequel cette durée moyenne peut être calculée.

## ARTICLE 6

1. Pour les personnes qui travaillent par équipes successives à des travaux dont le fonctionnement continu doit, en raison même de la nature du travail, être nécessairement assuré sans interruption à aucun moment du jour, de la nuit et de la semaine, la durée hebdomadaire du travail peut atteindre une moyenne de quarante-deux (quarante-huit) heures.

2. L'autorité compétente doit déterminer les travaux auxquels s'applique le paragraphe 1 du présent article et, si la durée du travail est calculée en moyenne, l'autorité compétente doit déterminer également le nombre de semaines sur lequel la moyenne pourra être calculée.

## ARTICLE 7

1. L'autorité compétente peut permettre le dépassement des limites fixées à la durée du travail par les articles précédents, dans la mesure requise pour récupérer les heures de travail perdues par suite d'arrêts collectifs du travail résultant:

- a) de causes accidentelles ou de force majeure;
- b) de conditions atmosphériques;
- c) de jours fériés tombant un jour ouvrable.

2. L'autorité compétente déterminera:

- a) les conditions dans lesquelles les heures de travail perdues pourront être récupérées;
- b) la période pendant laquelle les heures de travail perdues pourront être récupérées;
- c) la durée maximum de la prolongation hebdomadaire de travail autorisée en vue de la récupération des heures de travail perdues.

## ARTICLE 8

The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded to a prescribed extent in the cases of—

- (a) persons employed in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the undertaking, part of the undertaking, or shift;
- (b) persons employed on essentially intermittent work which by its nature consists of long periods of inaction during which the persons concerned have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls;
- (c) persons whose continued presence is necessary for the completion of operations which for technical reasons cannot be interrupted at will and which by reason of exceptional circumstances it has not been possible to complete within the limits laid down in the preceding Articles;
- (d) persons engaged on work which must be performed in order to avoid the deterioration of materials or goods and which by reason of their nature or of exceptional circumstances it has not been possible to complete within the limits laid down in the preceding Articles;
- (e) persons engaged on work required to co-ordinate the work of two successive shifts;
- (f) persons engaged on work necessary for stocktaking, the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts.

## ARTICLE 9

1. The limits of hours authorised by the preceding Articles may be exceeded, but only in so far as may be necessary to avoid serious interference with the ordinary working of the undertaking,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery, installations or plant, or in case of *force majeure*;
- (b) in order to make good the unforeseen absence of one or more members of a shift.

2. The limits of hours authorised by the preceding Articles may be exceeded in case of necessity for ensuring the working of a service of public utility.

## ARTICLE 8

L'autorité compétente peut, dans les cas suivants, permettre le dépassement, dans une mesure déterminée, des limites de la durée du travail autorisée en vertu des articles précédents:

- a) dans le cas de personnes employées à des travaux préparatoires ou complémentaires qui doivent être nécessairement exécutés en dehors des limites assignées au travail général de l'entreprise, de la partie d'entreprise ou de l'équipe;
- b) dans le cas de personnes employées à des travaux essentiellement intermittents qui, par leur nature, comportent de longues périodes d'inactivité pendant lesquelles ces personnes n'ont à déployer ni activité matérielle, ni attention soutenue, ou ne restent à leur poste que pour répondre à des appels éventuels;
- c) dans le cas de personnes dont la présence continue est nécessaire pour l'achèvement d'opérations qui, pour des raisons techniques, ne peuvent être interrompues à volonté et qu'il n'a pas été possible d'achever, par suite de circonstances exceptionnelles, dans les limites fixées aux articles précédents;
- d) dans le cas de personnes occupées à des travaux qui doivent être effectués pour éviter la détérioration des matières ou produits et qu'il n'a pas été possible d'achever, par suite de leur nature ou de circonstances exceptionnelles, dans les limites fixées aux articles précédents;
- e) dans le cas de personnes occupées à des travaux indispensables pour coordonner le travail de deux équipes qui se succèdent;
- f) dans le cas de personnes occupées à des travaux nécessaires à l'établissement d'inventaires et de bilans, échéances, liquidations et arrêtés de comptes.

## ARTICLE 9

1. Les limites de la durée du travail autorisée en vertu des articles précédents peuvent être dépassées, mais uniquement dans la mesure nécessaire pour éviter qu'une gêne sérieuse ne soit apportée à la marche normale de l'entreprise:

- a) en cas d'accident survenu ou imminent, ou en cas de travaux d'urgence à effectuer aux machines, aux installations ou à l'outillage, ou en cas de force majeure;
- b) pour faire face à l'absence imprévue d'une ou plusieurs personnes d'une équipe.

2. Les limites de la durée du travail autorisées en vertu des articles précédents peuvent être dépassées lorsqu'il est nécessaire d'assurer le fonctionnement d'un service d'intérêt public.

3. The employer shall notify the competent authority without delay of all time worked in virtue of this Article and of the reasons therefor.

### ARTICLE 10

1. The competent authority may permit the limits of hours authorised in the preceding Articles, to be exceeded in cases in which it is satisfied that there is a shortage of indispensable skilled labour.

2. In cases in which recourse is had to the provisions of paragraph 1 of this Article, the competent authority shall determine—

- (a) the classes of persons affected;
- (b) the maximum number of weekly hours which may be worked; and
- (c) the period during which additional hours may be worked.

### ARTICLE 11

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by persons employed in the classes of undertakings, the activity of which is subject to seasonal fluctuations.

2. In cases in which recourse is had to the provisions of paragraph 1 of this Article, the competent authority shall determine—

- (a) the classes of undertakings affected;
- (b) the maximum number of weekly hours which may be worked; and
- (c) the period or periods during which additional hours may be worked.

### ARTICLE 12

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by the working of overtime in accordance with the provisions of this Article.

2. The competent authority may grant permission to work overtime in virtue of this Article in accordance with regulations prescribing—

- (a) the procedure by which permission shall be granted;
- (b) the minimum overtime rate of remuneration, which shall in no case be less than one-and-a-quarter times the normal rate; and

3. L'employeur doit faire connaître sans délai à l'autorité compétente toutes heures de travail effectuées en vertu du présent article et les raisons qui les justifient.

## ARTICLE 10

1. L'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisées en vertu des articles précédents, lorsqu'elle s'est assurée que la main-d'œuvre qualifiée indispensable fait défaut.

2. Lorsqu'il est fait usage des dispositions prévues au paragraphe 1 du présent article, l'autorité compétente doit déterminer:

- a) les catégories de personnes visées;
- b) la durée maximum hebdomadaire du travail pouvant être effectuée;
- c) la période pendant laquelle le dépassement peut être effectué.

## ARTICLE 11

1. L'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisée, en vertu des articles précédents, pour les personnes occupées dans des catégories d'entreprises dont l'activité est soumise à des fluctuations saisonnières.

2. Lorsqu'il est fait usage des dispositions prévues au paragraphe 1 du présent article, l'autorité compétente doit déterminer:

- a) les catégories d'entreprises visées;
- b) la durée maximum hebdomadaire du travail pouvant être effectuée;
- c) la période ou les périodes pendant lesquelles le dépassement peut être effectué.

## ARTICLE 12

1. L'autorité compétente peut permettre que les limites de la durée du travail autorisées par les articles précédents soient dépassées en raison d'heures supplémentaires effectuées conformément aux dispositions du présent article.

2. L'autorité compétente peut accorder l'autorisation d'effectuer des heures supplémentaires en vertu du présent article, conformément à des règlements qui doivent prescrire:

- a) la procédure par laquelle les autorisations sont accordées;
- b) le taux minimum de majoration de salaire qui ne peut, en aucun cas, être inférieur à vingt-cinq pour cent par rapport au salaire normal;

- (c) the maximum number of hours for which permission may be granted, which shall in no case exceed—
- (i) one hundred (seventy-five) hours in any year in cases in which weekly hours of work are calculated as an average over a period exceeding a week; or
  - (ii) one hundred and seventy-five (one hundred and fifty) hours in any year in cases in which the weekly limit of hours of work is applied as a strict limit applicable to each week.

3. In any country in which it is not desired to place a fixed number of hours of overtime in the year at the disposal of undertakings, the competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded, subject to the condition that all time worked in virtue of this paragraph shall be paid for at not less than one-and-a-half times the normal rate.

### ARTICLE 13

During a period which shall not exceed three years from the coming into force of this Convention for the Member concerned, the competent authority may approve transitional arrangements in virtue of which a limit of hours not exceeding forty-four (forty-six) in any week may be substituted during the said period for the limit of hours authorised by Article 5.

### ARTICLE 14

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of economic development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular localities or particular classes of undertakings as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any

- c) le nombre maximum d'heures pour lesquelles l'autorisation peut être accordée, ce nombre ne pouvant, en aucun cas, dépasser:
- i) cent (soixante-quinze) heures par an lorsque la durée hebdomadaire du travail est calculée en moyenne sur une période plus longue que la semaine;
  - ii) cent soixante-quinze (cent cinquante) heures par an lorsque la durée hebdomadaire est considérée comme une limite stricte, applicable à chaque semaine.

3. Dans tout pays où il n'est pas jugé désirable de mettre un nombre déterminé d'heures supplémentaires à la disposition des entreprises, l'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisées en vertu des articles précédents, sous réserve que toute heure effectuée conformément au présent paragraphe soit rémunérée à un taux majoré d'au moins cinquante pour cent par rapport au salaire normal.

### ARTICLE 13

Pendant une période de trois ans au plus à compter de l'entrée en vigueur de la présente convention à l'égard de chaque Membre, l'autorité compétente peut approuver des arrangements transitoires en vertu desquels une limite n'excédant pas quarante-quatre (quarante-six) heures par semaine peut être substituée pendant la dite période aux limites autorisées par l'article 5.

### ARTICLE 14

1. Lorsque le territoire d'un Membre comprend de vastes régions où, en raison du caractère clairsemé de la population ou en raison de l'état de développement économique, l'autorité compétente estime impraticable d'appliquer les dispositions de la présente convention, elle peut exempter lesdites régions de l'application de la convention, soit d'une manière générale, soit avec les exceptions qu'elle juge appropriées à l'égard de certaines localités ou de certaines catégories d'entreprises.

2. Tout Membre doit indiquer, dans son premier rapport annuel à soumettre sur l'application de la présente convention, en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail, toute région pour laquelle il se propose d'avoir recours aux dispositions du présent article. Par la suite, aucun Membre ne pourra recourir aux dispositions du présent article, sauf en ce qui concerne les régions qu'il aurait ainsi indiquées.

3. Tout Membre recourant aux dispositions du présent article doit indiquer, dans les rapports annuels ultérieurs, les régions

areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

## ARTICLE 15

1. Any Member to which this Article applies which has appended to its ratification a declaration of its intention so to do may substitute for the limit of forty (forty-four) hours authorised by Article 5, paragraph 1, a limit specified in the declaration but not exceeding forty-eight hours.

2. Any Member to which this Article applies in the case of which the national laws or regulations exclude from their scope undertakings not employing more than a prescribed number of persons may likewise append to its ratification a declaration stating its intention to exclude from the application of the Convention undertakings which do not employ such number of persons not exceeding twenty as is specified in the declaration.

3. Any Member which has appended to its ratification a declaration made in virtue of the preceding paragraphs may at any time by subsequent declaration—

- (a) accept a limit of hours lower than that specified in any earlier declaration; and
- (b) undertake to apply the Convention to undertakings excluded from its scope in virtue of any earlier declaration.

4. The Governing Body of the International Labour Office shall in the course of a period which shall not exceed five years from the coming into force of this Convention reconsider the provisions of this Article with a view to their revision.

5. The Members to which this Article applies are: . . . . .

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## ARTICLE 16

1. In the case of persons employed underground in mines to which this Convention applies, the provisions of this Article shall apply in substitution for the provisions of Articles 4, 5 and 6.

pour lesquelles il renonce au droit de faire appel auxdites dispositions.

## ARTICLE 15

1. Tout Membre auquel s'applique le présent article et qui aura accompagné sa ratification d'une déclaration faisant connaître son intention à cet effet, peut substituer à la limite de quarante (quarante-quatre) heures autorisée par l'article 5, paragraphe 1, une limite spécifiée dans ladite déclaration mais ne dépassant pas quarante-huit heures.

2. Tout Membre auquel s'applique le présent article, et dont la législation nationale exclut de son champ d'application les entreprises n'employant pas plus d'un nombre déterminé de personnes, peut, également, accompagner sa ratification d'une déclaration faisant connaître son intention d'exclure de l'application de la présente convention les entreprises employant moins d'un certain nombre de personnes spécifié dans ladite déclaration et n'excédant en aucun cas vingt personnes.

3. Tout Membre qui aura accompagné sa ratification d'une déclaration établie conformément aux paragraphes précédents peut, en tout temps, émettre une déclaration subséquente aux termes de laquelle:

- a) il accepte une limitation de la durée du travail inférieure à celle indiquée dans une déclaration antérieure;
- b) il s'engage à appliquer la convention à des entreprises qui se trouvent exclues de son champ d'application en vertu d'une déclaration antérieure.

4. Le Conseil d'administration du Bureau international du Travail doit, au cours d'une période qui ne dépassera pas cinq années à compter de l'entrée en vigueur de la présente convention, soumettre les dispositions du présent article à un nouvel examen en vue de leur révision éventuelle.

5. Les Membres auxquels s'applique le présent article sont:

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## ARTICLE 16

1. En ce qui concerne les personnes occupées aux travaux souterrains dans les mines auxquelles s'applique la présente convention, les dispositions du présent article remplacent celles des articles 4, 5 et 6.

2. Hours of work in underground mines means the time spent in the mine determined in the following manner:

- (a) in the case of mines where access is by shaft, the time spent in the mine means the period between the time when the worker enters the cage in order to descend and the time when he leaves the cage after re-ascending;
- (b) in the case of mines where access is by an adit, the time spent in the mine means the period between the time when the worker passes through the entrance of the adit and the time of his return to the surface.

3. In no underground mine shall the time spent in the mine by any worker exceed eight hours in the day nor shall it exceed an average of forty (forty-two and five-eighths) hours per week. The competent authority shall decide the methods of application.

4. The provisions of paragraph 3 of this Article shall be deemed to be complied with

- (a) if the period between the time when the first workers of the shift or of any group leave the surface and the time when they return to the surface does not exceed the limits authorised by the said paragraph; and
- (b) if the order of and the time required by the descent and ascent of the shift or of any group of workers are approximately the same.

5. No worker employed on operations which by their nature must be carried on continuously may be employed for more than eight hours per day or an average of forty-two (forty-eight) hours per week, exclusive of the time spent in the mine by that worker in reaching and returning from his place of work, it being understood that in each case this time will be reduced to the indispensable minimum. The competent authority shall decide the methods of application.

## ARTICLE 17

The decisions to be taken by the competent authority in pursuance of the provisions of this Convention enumerated below shall be taken after consultation with the employers' and workers' organisations concerned, where such exist:

Article 2;		Article 8;
3;		10;
5, paragraph 2;		11;
6,          "      2;		12;
7,          "      2;		16, paragraph 3.

2. La durée du travail dans les mines souterraines consiste dans la durée de présence dans la mine, déterminée de la manière suivante:

- a) est considérée comme durée de présence dans une mine desservie par puits, la période comprise entre le moment où l'ouvrier entre dans la cage pour descendre et le moment où il en sort, la remonte effectuée;
- b) est considérée comme durée de présence dans une mine où l'entrée a lieu par galeries, le temps qui s'écoule entre le moment où l'ouvrier franchit l'entrée de la galerie d'accès et celui où il est de retour à la surface.

3. Dans aucune mine souterraine, la durée de présence de chaque ouvrier dans la mine ne peut excéder ni huit heures par jour, ni en moyenne quarante heures (quarante-deux heures cinq huitièmes) par semaine. L'autorité compétente doit décider des modalités d'application.

4. Les prescriptions du paragraphe 3 du présent article seront considérées comme remplies:

- a) si la durée comprise entre le moment où les premiers ouvriers du poste ou d'un groupe quelconque quittent la surface et celui où ils regagnent la surface ne dépasse pas la durée prévue par ledit paragraphe;
- b) si l'ordre et la durée, tant de la descente que de la remonte d'un poste ou d'un groupe quelconque d'ouvriers, sont sensiblement les mêmes.

5. Aucun ouvrier affecté à des travaux qui, par leur nature, sont nécessairement continus, ne peut être employé ni pendant plus de huit heures par jour, ni pendant plus de quarante-deux (quarante-huit) heures en moyenne par semaine, non compris le temps passé dans la mine pour atteindre le lieu de travail et en revenir, étant entendu que, dans chaque cas, ce temps sera réduit au minimum indispensable. L'autorité compétente doit décider des modalités d'application.

## ARTICLE 17

Les décisions que l'autorité compétente est appelée à prendre, en vertu des dispositions ci-dessous énumérées de la présente convention, doivent être prises après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe:

Article 2;		Article 8;
» 3;		» 10;
» 5, paragraphe 2;		» 11;
» 6, " 2;		» 12;
» 7, " 2;		» 16, paragraphe 3.

## ARTICLE 18

In order to facilitate effective enforcement of the provisions of this Convention, every employer shall—

- (a) notify in a manner approved by the competent authority by the posting of notices or otherwise:
  - (i) the hours at which work begins and ends;
  - (ii) where work is carried on by shifts, the hours at which each shift begins and ends;
  - (iii) where a rotation system is applied, a description of the system including a time-table for each person or group of persons;
  - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks;
  - (v) the arrangements made in cases in which lost time is made up; and
  - (vi) rest periods which are not reckoned as part of the working hours; and
- (b) keep a record in the form prescribed by the competent authority of all hours worked in virtue of Articles 10, 11 and 12 and of the payments made in respect thereof.

## ARTICLE 19

1. The operation of the provisions of this Convention may be suspended by the competent authority, but only for the period during which such suspension is strictly indispensable, in case of necessity for meeting the requirements of national safety or in case grave circumstances endanger the national economy.

2. The International Labour Office shall be notified immediately of—
- (a) any suspension of the operation of the provisions of this Convention, together with the reasons for such suspension; and
  - (b) the date from which such suspension has been terminated.

## ARTICLE 20

The annual reports upon the application of this Convention to be submitted by Members under Article 22 of the Constitution of

## ARTICLE 18

En vue de faciliter l'application effective des dispositions de la présente convention, chaque employeur doit:

- a) faire connaître, selon un mode approuvé par l'autorité compétente, au moyen d'affiche, ou autrement:
  - i) les heures auxquelles commence et finit le travail;
  - ii) si le travail s'effectue par équipes, les heures auxquelles commence et finit le tour de chaque équipe;
  - iii) s'il est fait application d'un système de roulement, une description de ce système, y compris un horaire de travail pour chaque personne ou groupe de personnes;
  - iv) les dispositions prises dans les cas où la durée hebdomadaire moyenne de travail est calculée sur plusieurs semaines;
  - v) les dispositions prises dans les cas où les heures de travail perdues sont récupérées;
  - vi) les périodes de repos qui sont considérées comme ne faisant pas partie des heures de travail;
- b) inscrire sur un registre, selon le mode approuvé par l'autorité compétente, toutes les heures de travail qui sont effectuées en vertu des articles 10, 11 et 12, ainsi que le montant de leur rétribution.

## ARTICLE 19

1. L'application des dispositions de la présente convention peut être suspendue par l'autorité compétente, mais uniquement pendant une période strictement indispensable, lorsqu'il est nécessaire de faire face à des obligations imposées par la sécurité nationale ou lorsque des circonstances graves mettent en danger l'économie nationale.

2. Le Bureau international du Travail doit être immédiatement informé:

- a) de toute suspension de l'application des dispositions de la présente convention ainsi que des raisons de cette suspension;
- b) de la date à laquelle cette suspension a pris fin.

## ARTICLE 20

Les rapports sur l'application de la présente convention, à soumettre par les Membres aux termes de l'article 22 de la Constitu-

the International Labour Organisation shall include more particularly information concerning—

- (a) exemptions authorised in virtue of Articles 2 and 3 and the conditions under which these exemptions are granted;
- (b) the measures taken in virtue of Article 5, paragraph 2;
- (c) the determinations made in virtue of Article 6;
- (d) the measures taken in virtue of Article 7;
- (e) the measures taken in virtue of Articles 8, 10 and 11;
- (f) the conditions under which recourse is had to the provisions of Article 12; and
- (g) the measures taken in virtue of Article 13.

#### ARTICLE 21

In accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions for the workers than those provided for by this Convention.

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tution de l'Organisation internationale du Travail, doivent comprendre des renseignements complets concernant notamment:

- a) les exemptions autorisées en vertu des articles 2 et 3 et les conditions dans lesquelles sont accordées ces exemptions;
- b) les mesures prises en vertu de l'article 5, paragraphe 2;
- c) la détermination opérée en vertu de l'article 6;
- d) les mesures prises en vertu de l'article 7;
- e) les mesures prises en vertu des articles 8, 10 et 11;
- f) les conditions dans lesquelles il est fait usage des dispositions de l'article 12;
- g) les dispositions prises en vertu de l'article 13.

#### ARTICLE 21

Conformément à l'article 19, paragraphe 11, de la Constitution de l'Organisation internationale du Travail, rien dans la présente convention n'affecte toute loi, toute sentence, toute coutume ou tout accord entre les employeurs et les travailleurs qui assure des conditions plus favorables aux travailleurs que celles prévues par la présente convention.

# PROPOSED DRAFT CONVENTION CONCERNING THE REDUCTION OF HOURS OF WORK IN COMMERCE AND OFFICES

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## ARTICLE 1

1. This Convention applies to manual and non-manual workers, including apprentices, employed in the following establishments, whether public or private:

- (a) commercial establishments and offices, including establishments engaged wholly or mainly in the sale, purchase, distribution, insurance, negotiation, loan or administration of goods or services of any kind;
- (b) establishments for the treatment or care particularly of the aged, sick, infirm, destitute or mentally unfit;
- (c) hotels, restaurants, boarding-houses, clubs, cafés and other refreshment houses;
- (d) theatres and places of public amusement;
- (e) any establishment similar in character to those enumerated in sub-paragraphs (a), (b), (c) and (d) above.

2. This Convention also applies to manual and non-manual workers, including apprentices, employed in the following establishments or parts of establishments, whether public or private:

- (a) establishments which possess both an industrial character and a character similar to that of the establishments enumerated in paragraph 1 of this Article, unless the said establishments are subject to national regulations on hours of work in industry, mining or transport;
- (b) parts or services of undertakings engaged in industry, mining or transport, which parts or services would, if independent establishments, be covered by one or more of the sub-paragraphs of paragraph 1 of this Article;
- (c) transport services of establishments referred to in paragraph 1 of this Article, which services—
  - (i) are used only to meet the requirements of such establishments;

# AVANT-PROJET DE CONVENTION CONCERNANT LA RÉDUCTION DE LA DURÉE DU TRAVAIL DANS LE COMMERCE ET LES BUREAUX

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## ARTICLE 1

1. La présente convention s'applique aux employés, ouvriers et apprentis occupés dans les établissements suivants, publics ou privés:

- a) Les établissements commerciaux et les bureaux, comprenant les établissements dont l'activité consiste essentiellement ou principalement à vendre, acheter, distribuer, assurer, négocier, prêter ou gérer des biens ou des services de toute nature;
- b) les établissements où sont hospitalisés, traités ou soignés, notamment, les vieillards, les indigents, les malades, les infirmes ou les aliénés;
- c) les hôtels, restaurants, pensions, cercles, cafés et autres établissements où sont servies des consommations;
- d) les établissements de spectacles et de divertissements;
- e) tous les établissements de caractères similaires à ceux des établissements énumérés aux alinéas a), b), c) et d) ci-dessus.

2. La convention s'applique également aux employés, ouvriers et apprentis occupés dans les établissements ou parties d'établissements, publics ou privés, ci-après:

- a) les établissements revêtant à la fois un caractère industriel et un caractère similaire à celui des établissements énumérés au paragraphe 1 du présent article, à moins que les établissements en cause ne soient soumis aux réglementations nationales sur la durée du travail dans l'industrie, les mines ou les transports;
- b) les parties ou services des entreprises de l'industrie, des mines ou des transports qui, si elles constituaient des entreprises indépendantes, seraient visées par un ou plusieurs des alinéas du paragraphe 1 du présent article;
- c) les services de transport des établissements visés au paragraphe 1 du présent article, lorsque ces services:
  - i) sont utilisés exclusivement pour les besoins desdits établissements;

- (ii) are not open to public traffic; and
- (iii) do not operate on a public road, railway or inland waterway.

3. In any case in which it is doubtful whether any establishment, part or service of an establishment is an establishment, part or service to which this Convention applies, the question shall be settled by the competent authority.

## ARTICLE 2

The competent authority may exempt from the application of this Convention persons employed in—

- (a) establishments where only members of the employer's family are employed;
- (b) departments or establishments operated directly by the State or a public authority, other than—
  - (i) departments or establishments which possess a commercial character and made a charge for their services, and
  - (ii) postal and telecommunication services.

## ARTICLE 3

The competent authority may exempt from the application of this Convention—

- (a) classes of persons who by reason of their special responsibilities are not subject to the normal rules governing hours of work;
- (b) travellers and representatives, in so far as they carry on their work outside the establishment.

## ARTICLE 4

For the purpose of this Convention the term "hours of work" means the time during which the person employed is at the disposal of the employer and is not free to dispose of his own time and movements.

## ARTICLE 5

1. The hours of work of persons to whom this Convention applies shall not exceed forty (forty-four) in any one week.

- ii) ne sont pas ouverts au trafic public;
- iii) n'utilisent pas une route publique, une voie ferrée publique ou une voie d'eau intérieure publique.

3. Dans tous les cas où il n'apparaît pas certain qu'une entreprise, une partie d'entreprise ou un service est visé par la présente convention, la question doit être tranchée par l'autorité compétente.

## ARTICLE 2

L'autorité compétente peut exempter de l'application de la présente convention les personnes occupées dans:

- a) les établissements où sont seuls occupés les membres de la famille de l'employeur;
- b) les administrations ou les établissements directement gérés par l'Etat ou par les pouvoirs publics, autres que:
  - i) les administrations et les établissements ayant un caractère commercial et accordant leurs services à titre onéreux;
  - ii) les services des postes et de télécommunication.

## ARTICLE 3

L'autorité compétente peut exempter de l'application de la présente convention:

- a) les catégories de personnes qui, en raison de leur responsabilité particulière, ne sont pas soumises aux règles normales sur la durée du travail;
- b) les voyageurs et les représentants, dans la mesure où ils exercent leur travail en dehors de l'établissement.

## ARTICLE 4

Aux fins de la présente convention, l'expression « durée du travail » signifie le temps pendant lequel la personne employée est à la disposition de l'employeur et n'est pas libre de disposer de son temps et de ses mouvements.

## ARTICLE 5

1. La durée du travail des personnes auxquelles s'applique la présente convention ne doit pas dépasser quarante (quarante-quatre) heures par semaine.

2. The competent authority may permit weekly hours of work to be calculated as an average, and in such case shall determine the number of weeks over which the average may be calculated.

## ARTICLE 6

1. The competent authority may authorise hours of work not exceeding the limits indicated below in respect of any establishment or part thereof falling within the categories mentioned below, in cases in which the nature of the work of a considerable proportion of the persons employed is such that it comprises periods of activity interrupted by considerable periods of inactivity or mere presence:

- (a) forty-four (forty-eight) hours in any one week in the case of all or certain persons employed in establishments in the retail and service trades, or forty-eight (fifty-two) hours in any one week in the case of all or certain persons employed in classes of such establishments which are customarily required to remain open during prolonged periods of the day or week or at unforeseen times;
- (b) forty-eight (fifty-two) hours in any one week in the case of all or certain persons employed in hotels, restaurants, boarding-houses, clubs, cafés, and other refreshment houses;
- (c) forty-eight hours in any one week in the case of all or certain persons employed in establishments for the treatment or care particularly of the aged, sick, infirm, destitute or mentally unfit;
- (d) forty-eight (fifty-two) hours in any one week in the case of all or certain persons employed in theatres and places of public amusement.

2. Where limits of hours of work in excess of the limits fixed in Article 5 are authorised in virtue of paragraph 1 of this Article, the competent authority shall determine the classes of persons employed in any such establishment or part thereof in respect of whom the longer limit applies.

3. The competent authority may permit the weekly hours of work of the persons to whom this Article applies to be calculated as an average, and in such case shall determine the number of weeks over which the average may be calculated.

2. L'autorité compétente peut autoriser le calcul en moyenne de la durée du travail, et dans ce cas, elle doit fixer le nombre de semaines sur lesquelles cette durée moyenne peut être calculée.

## ARTICLE 6

1. L'autorité compétente peut permettre des durées de travail n'excédant pas les limites ci-après stipulées, pour tous établissements ou parties d'établissements ressortissant à l'une des catégories suivantes, dans le cas où la nature du travail d'une proportion considérable des personnes qui sont employées est telle qu'il comprend des périodes d'activité coupées par d'importantes périodes d'inactivité ou de simple présence:

- a) quarante-quatre (quarante-huit) heures par semaine pour toutes ou certaines personnes employées dans les établissements de vente au détail et les établissements assimilés, ou quarante-huit (cinquante-deux) heures au cours d'une semaine donnée pour toutes ou certaines personnes employées dans des catégories de tels établissements qui, selon la coutume, doivent être ouverts pendant de longues périodes du jour ou de la semaine, ou à des moments imprévus;
- b) quarante-huit (cinquante-deux) heures au cours d'une semaine donnée pour toutes ou certaines personnes employées dans les hôtels, restaurants, pensions, cercles, cafés et autres établissements similaires;
- c) quarante-huit heures au cours d'une semaine donnée pour toutes ou certaines personnes employées dans les établissements où sont hospitalisés, traités ou soignés, notamment, les vieillards, les indigents, les malades, les infirmes ou les aliénés;
- d) quarante-huit (cinquante-deux) heures au cours d'une semaine donnée pour toutes ou certaines personnes employées dans les établissements de spectacle et autres lieux de divertissement.

2. Lorsque des durées de travail excédant les limites fixées à l'article 5 de la présente convention sont autorisées en vertu du paragraphe 1 du présent article, l'autorité compétente doit déterminer les catégories de personnes employées dans de tels établissements ou parties d'établissements et auxquelles des durées plus longues peuvent être appliquées.

3. L'autorité compétente peut autoriser le calcul en moyenne de la durée du travail des personnes auxquelles s'applique le présent article et, dans ce cas, elle doit fixer le nombre de semaines sur lesquelles cette durée moyenne peut être calculée.

## ARTICLE 7

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded to the extent required to make up time lost through collective stoppages of work resulting from:

- (a) accidental causes or cases of *force majeure*;
- (b) weather conditions;
- (c) public holidays falling on a working day.

2. The competent authority shall determine—

- (a) the conditions under which lost time may be made up;
- (b) the periods within which lost time may be made up; and
- (c) the maximum extension of weekly hours permitted when lost time is being made up.

## ARTICLE 8

The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded to a prescribed extent in the cases of—

- (a) persons employed in preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the establishment, part of establishment, or shift;
- (b) persons employed on essentially intermittent work which by its nature consists of long periods of inaction during which the persons concerned have to display neither physical activity nor sustained attention or remain at their posts only to reply to possible calls;
- (c) persons whose continued presence is necessary for the completion of operations which for technical reasons cannot be interrupted at will and which by reason of exceptional circumstances it has not been possible to complete within the limits laid down in the preceding Articles;
- (d) persons engaged on work which must be performed in order to avoid the deterioration of materials or goods and which by reason of their nature or of exceptional circumstances it has not been possible to complete within the limits laid down in the preceding Articles;

## ARTICLE 7

1. L'autorité compétente peut permettre le dépassement des limites fixées à la durée du travail par les articles précédents, dans la mesure requise pour récupérer les heures de travail perdues par suite d'arrêts collectifs du travail résultant:

- a) de causes accidentelles ou de force majeure;
- b) de conditions atmosphériques;
- c) de jours fériés tombant un jour ouvrable.

2. L'autorité compétente déterminera:

- a) les conditions dans lesquelles les heures de travail perdues pourront être récupérées;
- b) la période pendant laquelle les heures de travail perdues pourront être récupérées;
- c) la durée maximum de la prolongation hebdomadaire de travail autorisée en vue de la récupération des heures de travail perdues.

## ARTICLE 8

L'autorité compétente peut, dans les cas suivants, permettre le dépassement, dans une mesure déterminée, des limites de la durée du travail autorisée en vertu des articles précédents:

- a) dans le cas de personnes employées à des travaux préparatoires ou complémentaires qui doivent être nécessairement exécutés en dehors des limites assignées au travail général de l'établissement, de la partie d'établissement ou de l'équipe;
- b) dans le cas de personnes employées à des travaux essentiellement intermittents qui, par leur nature, comportent de longues périodes d'inactivité pendant lesquelles ces personnes n'ont à déployer ni activité matérielle, ni attention soutenue, ou ne restent à leur poste que pour répondre à des appels éventuels;
- c) dans le cas de personnes dont la présence continue est nécessaire pour l'achèvement d'opérations qui, pour des raisons techniques, ne peuvent être interrompues à volonté et qu'il n'a pas été possible d'achever, par suite de circonstances exceptionnelles, dans les limites fixées aux articles précédents;
- d) dans le cas de personnes occupées à des travaux qui doivent être effectués pour éviter la détérioration des matières ou produits et qu'il n'a pas été possible d'achever, par suite de leur nature ou de circonstances exceptionnelles, dans les limites fixées aux articles précédents;

- (e) persons engaged on work required to co-ordinate the work of two successive shifts;
- (f) persons engaged on work necessary for stocktaking, the preparation of balance sheets, settlement days, liquidations, and the balancing and closing of accounts.

### ARTICLE 9

1. The limits of hours authorised by the preceding Articles may be exceeded, but only in so far as may be necessary to avoid serious interference with the ordinary working of the establishment,

- (a) in case of accident, actual or threatened, or in case of urgent work to be done to machinery, installations or plant, or in case of *force majeure*;
- (b) in order to make good the unforeseen absence of one or more members of a shift.

2. The limits of hours authorised by the preceding Articles may be exceeded in case of necessity for ensuring the working of a service of public utility.

3. The employer shall notify the competent authority without delay of all time worked in virtue of this Article and of the reasons therefor.

### ARTICLE 10

1. The competent authority may permit the limits of hours authorised in the preceding Articles to be exceeded in cases in which it is satisfied that there is a shortage of indispensable skilled labour.

2. In cases in which recourse is had to the provisions of paragraph 1 of this Article, the competent authority shall determine—

- (a) the classes of persons affected;
- (b) the maximum number of weekly hours which may be worked; and
- (c) the period during which additional hours may be worked.

### ARTICLE 11

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by persons

- e) dans le cas de personnes occupées à des travaux indispensables pour coordonner le travail de deux équipes qui se succèdent;
- f) dans le cas de personnes occupées à des travaux nécessaires à l'établissement d'inventaires et de bilans, d'échéances, de liquidations et d'arrêtés de comptes.

### ARTICLE 9

1. Les limites de la durée du travail autorisée en vertu des articles 5 et 6 peuvent être dépassées, mais uniquement dans la mesure nécessaire pour éviter qu'une gêne sérieuse ne soit apportée à la marche normale de l'établissement:

- a) en cas d'accident survenu ou imminent, ou en cas de travaux d'urgence à effectuer aux machines, aux installations ou à l'outillage, ou en cas de force majeure;
- b) pour faire face à l'absence imprévue d'une ou plusieurs personnes d'une équipe.

2. Les limites de la durée du travail autorisées en vertu des articles précédents peuvent être dépassées lorsqu'il est nécessaire d'assurer le fonctionnement d'un service d'intérêt public.

3. L'employeur doit faire connaître sans délai à l'autorité compétente toutes heures de travail effectuées en vertu du présent article et les raisons qui les justifient.

### ARTICLE 10

1. L'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisées en vertu des articles précédents, lorsqu'elle s'est assurée que la main-d'œuvre qualifiée indispensable fait défaut.

2. Lorsqu'il est fait usage des dispositions prévues au paragraphe 1 du présent article, l'autorité compétente doit déterminer:

- a) les catégories de personnes visées;
- b) la durée maximum hebdomadaire du travail pouvant être effectuée;
- c) la période pendant laquelle le dépassement peut être effectué.

### ARTICLE 11

1. L'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisée en vertu des articles pré-

employed in the classes of establishments, the activity of which is subject to seasonal fluctuations.

2. In cases in which recourse is had to the provisions of paragraph 1 of this Article, the competent authority shall determine—

- (a) the classes of establishment affected;
- (b) the maximum number of weekly hours which may be worked; and
- (c) the period or periods during which additional hours may be worked.

## ARTICLE 12

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by the working of overtime in accordance with the provisions of this Article.

2. The competent authority may grant permission to work overtime in virtue of this Article in accordance with regulations prescribing—

- (a) the procedure by which permission shall be granted;
- (b) the minimum overtime rate of remuneration, which shall in no case be less than one-and-a-quarter times the normal rate; and
- (c) the maximum number of hours for which permission may be granted, which shall in no case exceed—
  - (i) one hundred (seventy-five) hours in any year in cases in which weekly hours of work are calculated as an average over a period exceeding a week; or
  - (ii) one hundred and seventy-five (one hundred and fifty) hours in any year in cases in which the weekly limit of hours of work is applied as a strict limit applicable to each week.

3. In any country in which it is not desired to place a fixed number of hours of overtime in the year at the disposal of establishments, the competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded, subject to the condition that all time worked in virtue of this paragraph shall be paid for at not less than one-and-a-half times the normal rate.

## ARTICLE 13

During a period which shall not exceed three years from the coming into force of the Convention for the Member concerned, the

cédents, pour les personnes occupées dans des catégories d'établissements dont l'activité est soumise à des fluctuations saisonnières.

2. Lorsqu'il est fait usage des dispositions prévues au paragraphe 1 du présent article, l'autorité doit déterminer:

- a) les catégories d'établissements visées;
- b) la durée maximum hebdomadaire du travail pouvant être effectuée;
- c) la période ou les périodes pendant lesquelles le dépassement peut être effectué.

## ARTICLE 12

1. L'autorité compétente peut permettre que les limites de la durée du travail autorisées par les articles précédents soient dépassées en raison d'heures supplémentaires effectuées conformément aux dispositions du présent article.

2. L'autorité compétente peut accorder l'autorisation d'effectuer les heures supplémentaires en vertu du présent article, conformément à des règlements qui doivent prescrire:

- a) la procédure par laquelle les autorisations sont accordées;
- b) le taux minimum de majoration de salaire qui ne peut, en aucun cas, être inférieur à vingt-cinq pour cent par rapport au salaire normal;
- c) le nombre maximum d'heures pour lesquelles l'autorisation peut être accordée, ce nombre ne pouvant, en aucun cas, dépasser:
  - i) cent (soixante-quinze) heures par an, lorsque la durée hebdomadaire du travail est calculée en moyenne sur une période plus longue que la semaine;
  - ii) cent soixante-quinze (cent cinquante) heures par an, lorsque la durée hebdomadaire est considérée comme une limite stricte, applicable à chaque semaine.

3. Dans tout pays où il n'est pas jugé désirable de mettre un nombre déterminé d'heures supplémentaires à la disposition des établissements, l'autorité compétente peut permettre le dépassement des limites de la durée du travail autorisées en vertu des articles précédents, sous réserve que toute heure effectuée conformément au présent paragraphe soit rémunérée à un taux majoré d'au moins cinquante pour cent par rapport au salaire normal.

## ARTICLE 13

Pendant une période de trois ans au plus, à compter de l'entrée en vigueur de la présente convention à l'égard de chaque Membre,

competent authority may approve transitional arrangements in virtue of which—

- (a) a limit of hours not exceeding forty-four (forty-six) a week may be substituted during the said period for the limit of hours authorised by Article 5;
- (b) limits of hours exceeding those laid down in Article 6 may be substituted for the limits authorised by that Article.

#### ARTICLE 14

1. In the case of a Member the territory of which includes large areas where, by reason of the sparseness of the population or the stage of economic development of the area, the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect of particular localities or particular classes of establishments as it thinks fit.

2. Each Member shall indicate in its first annual report upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation any areas in respect of which it proposes to have recourse to the provisions of the present Article and no Member shall, after the date of its first annual report, have recourse to the provisions of the present Article except in respect of areas so indicated.

3. Each Member having recourse to the provisions of the present Article shall indicate in subsequent annual reports any areas in respect of which it renounces the right to have recourse to the provisions of the present Article.

#### ARTICLE 15

1. Any Member to which this Article applies which has appended to its ratification a declaration of its intention so to do may—

- (a) substitute for the limit of forty (forty-four) hours authorised by Article 5, paragraph 1, a limit specified in the declaration but not exceeding forty-eight hours;
- (b) substitute for the limit of hours authorised by Article 6 higher limits specified in the declaration.

2. Any Member to which this Article applies in the case of which the national laws or regulations exclude from their scope estab-

l'autorité compétente peut approuver les arrangements transitoires, en vertu desquels:

- a) une limite n'excédant pas quarante-quatre (quarante-six) heures par semaine peut être substituée, pendant ladite période, aux limites autorisées par l'article 5;
- b) des limites de durée du travail dépassant celles prévues à l'article 6 peuvent être substituées, pendant ladite période, aux limites autorisées par l'article 6.

## ARTICLE 14

1. Lorsque le territoire d'un Membre comprend de vastes régions où, en raison du caractère clairsemé de la population ou de l'état de développement économique, l'autorité compétente estime impraticable d'appliquer les dispositions de la présente convention, elle peut exempter lesdites régions de l'application de la convention, soit d'une manière générale, soit avec les exceptions qu'elle juge appropriées à l'égard de certaines localités ou de certaines catégories d'établissements.

2. Tout Membre doit indiquer, dans son premier rapport annuel à soumettre sur l'application de la présente convention, en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail, toute région pour laquelle il se propose d'avoir recours aux dispositions du présent article. Par la suite, aucun Membre ne pourra recourir aux dispositions du présent article, sauf en ce qui concerne les régions qu'il aurait ainsi indiquées.

3. Tout Membre recourant aux dispositions du présent article doit indiquer, dans les rapports annuels ultérieurs, les régions pour lesquelles il renonce au droit de faire appel auxdites dispositions.

## ARTICLE 15

1. Tout Membre auquel s'applique le présent article et qui aura accompagné sa ratification d'une déclaration faisant connaître son intention à cet effet peut:

- a) substituer, à la limite de quarante (quarante-quatre) heures autorisée par l'article 5, paragraphe 1, une limite spécifiée par ladite déclaration mais ne dépassant pas quarante-huit heures;
- b) substituer, aux limites autorisées par l'article 6, des limites supérieures spécifiées dans ladite déclaration.

2. Tout Membre auquel s'applique le présent article, et dont la législation nationale exclut de son champ d'application les établis-

lishments not employing more than a prescribed number of persons may likewise append to its ratification a declaration stating its intention to exclude from the application of the Convention establishments which do not employ such number of persons not exceeding twenty as is specified in the declaration.

3. Any Member which has appended to its ratification a declaration made in virtue of the preceding paragraphs may at any time by subsequent declaration—

- (a) accept a limit of hours lower than that specified in any earlier declaration; and
- (b) undertake to apply the Convention to establishments excluded from its scope in virtue of any earlier declaration.

4. The Governing Body of the International Labour Office shall in the course of a period which shall not exceed five years from the coming into force of this Convention reconsider the provisions of this Article with a view to their revision.

5. The Members to which this Article applies are:

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#### ARTICLE 16

The decisions to be taken by the competent authority in pursuance of the provisions of this Convention enumerated below shall be taken after consultation with the employers' and workers' organisations concerned, where such exist:

Article 2;		Article 8;
“ 3;		“ 10;
“ 5, paragraph 2;		“ 11;
“ 6;		“ 12;
“ 7, paragraph 2;		“ 15, paragraph 1 (b).

#### ARTICLE 17

In order to facilitate effective enforcement of the provisions of this Convention, every employer shall—

- (a) notify in a manner approved by the competent authority by the posting of notices or otherwise—
  - (i) the hours at which work begins and ends;
  - (ii) where work is carried on by shifts, the hours at which each shift begins and ends;

sements n'employant pas plus d'un nombre déterminé de personnes, peut, également, accompagner sa ratification d'une déclaration faisant connaître son intention d'exclure de l'application de la présente convention les établissements employant moins d'un certain nombre de personnes spécifié dans ladite déclaration et n'excédant en aucun cas vingt personnes.

3. Tout Membre qui aura accompagné sa ratification d'une déclaration établie conformément aux paragraphes précédents peut, en tout temps, émettre une déclaration subséquente aux termes de laquelle:

- a) il accepte une limitation de la durée du travail inférieure à celle indiquée dans une déclaration antérieure;
  - b) il s'engage à appliquer la convention à des établissements qui se trouvent exclus de son champ d'application en vertu d'une déclaration antérieure.

4. Le Conseil d'administration du Bureau international du Travail doit, au cours d'une période qui ne dépassera pas cinq années à compter de l'entrée en vigueur de la présente convention, soumettre les dispositions du présent article à un nouvel examen en vue de leur révision éventuelle.

5. Les Membres auxquels s'applique le présent article sont:

## ARTICLE 16

Les décisions que l'autorité compétente est appelée à prendre en vertu des dispositions ci-dessous énumérées de la présente convention, doivent être prises après consultation des organisations d'employeurs et de travailleurs intéressées, s'il en existe:

Article 2; » 3; » 5, paragraphe 2; » 6; » 7, paragraphe 2;	Article 8; » 10; » 11; » 12; » 15, paragraphe 1 b).
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## ARTICLE 17

En vue de faciliter l'application effective des dispositions de la présente convention, chaque employeur doit:

- a) faire connaître, selon un mode approuvé par l'autorité compétente, au moyen d'affiches ou autrement:

  - i) les heures auxquelles commence et finit le travail;
  - ii) si le travail s'effectue par équipes, les heures auxquelles commence et finit le tour de chaque équipe;

- (iii) where a rotation system is applied, a description of the system including a time-table for each person or group of persons;
  - (iv) the arrangements made in cases where the average duration of the working week is calculated over a number of weeks;
  - (v) the arrangements made in cases in which lost time is made up; and
  - (vi) rest periods which are not reckoned as part of the working hours; and
- (b) keep a record in the form prescribed by the competent authority of all hours worked in virtue of Articles 10, 11 and 12 and of the payments made in respect thereof.

### ARTICLE 18

1. The operation of the provisions of this Convention may be suspended by the competent authority, but only for the period during which such suspension is strictly indispensable, in case of necessity for meeting the requirements of national safety or in case grave circumstances endanger the national economy.

2. The International Labour Office shall be notified immediately of—

- (a) any suspension of the operation of the provisions of this Convention, together with the reasons for such suspension; and
- (b) the date from which such suspension has been terminated.

### ARTICLE 19

The annual reports upon the application of this Convention to be submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall include more particularly information concerning—

- (a) exemptions authorised in virtue of Articles 2 and 3 and the conditions under which these exemptions are granted;
- (b) the measures taken in virtue of Article 5, paragraph 2;
- (c) the decisions taken in virtue of Article 6;
- (d) the measures taken in virtue of Article 7;
- (e) the measures taken in virtue of Articles 8, 10 and 11;
- (f) the conditions under which recourse is had to the provisions of Article 12; and
- (g) the measures taken in virtue of Article 13.

- iii) s'il est fait application d'un système de roulement, une description de ce système, y compris un horaire de travail pour chaque personne ou groupe de personnes;
  - iv) les dispositions prises dans les cas où la durée hebdomadaire moyenne de travail est calculée sur plusieurs semaines;
  - v) les dispositions prises dans les cas où les heures de travail perdues sont récupérées;
  - vi) les périodes de repos qui sont considérées comme ne faisant pas partie des heures de travail;
- b) inscrire sur un registre, selon le mode approuvé par l'autorité compétente, toutes les heures de travail qui sont effectuées en vertu des articles 10, 11 et 12, ainsi que le montant de leur rétribution.

#### ARTICLE 18

1. L'application des dispositions de la présente convention peut être suspendue par l'autorité compétente, mais uniquement pendant une période strictement indispensable, lorsqu'il est nécessaire de faire face à des obligations imposées par la sécurité nationale ou lorsque des circonstances graves mettent en danger l'économie nationale.

2. Le Bureau international du Travail doit être immédiatement informé:

- a) de toute suspension de l'application des dispositions de la présente convention ainsi que des raisons de cette suspension;
- b) de la date à laquelle cette suspension a pris fin.

#### ARTICLE 19

Les rapports sur l'application de la présente convention, à soumettre par les Membres aux termes de l'article 22 de la Constitution de l'Organisation internationale du Travail, doivent comprendre des renseignements complets concernant notamment:

- a) les exemptions autorisées en vertu des articles 2 et 3 et les conditions dans lesquelles sont accordées ces exemptions;
- b) les mesures prises en vertu de l'article 5, paragraphe 2;
- c) les décisions prises en vertu de l'article 6;
- d) les mesures prises en vertu de l'article 7;
- e) les mesures prises en vertu des articles 8, 10 et 11;
- f) les conditions dans lesquelles il est fait usage des dispositions de l'article 12;
- g) les dispositions prises en vertu de l'article 13.

## ARTICLE 20

In accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions for the workers than those provided for by this Convention.

